

**BUREAU OF INDUSTRY AND SECURITY
FREQUENTLY ASKED QUESTIONS
LICENSE EXCEPTIONS
CURRENT AS OF DECEMBER 17, 2024**

License Exceptions

Q1: Are there any license exceptions available to authorize the export, reexport or transfer (in-country) of items that require a license under the export controls imposed on Russia and Belarus?

A1: There are limited portions of two license exceptions available for exports, reexports, and transfers (in-country) of ‘luxury goods’ that are destined to the countries of Russia and Belarus (but not for Russian and Belarusian oligarchs and malign actors, even if such individuals are physically located in Russia or Belarus). Pursuant to § 746.10(c) they are:

- License Exception BAG, excluding firearms and ammunition, and
- License Exception AVS for saloon stores and supplies, excluding any saloon stores and supplies for aircraft registered in, owned, or controlled by, or under charter or lease by Russia or Belarus or a national of Russia or Belarus.

For items for which a license is required for export, export from abroad, reexport, and transfer (in-country) to Russia and Belarus under § 746.8 of the EAR, limited portions of the following license exceptions are available as identified in § 746.8(c) of the EAR:

- Temporary Imports, Exports, Reexports, and Transfers (In-Country) (TMP) for news media (see § 740.9(a)(9) of the EAR);
- Paragraph (b) License Exception Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV) (see § 740.11(b) of the EAR);
- License Exception Technology and Software Unrestricted (TSU) for software updates for civil end-users that are listed in § 746.8(c)(3) (see § 740.13(c) of the EAR);
- License Exception Baggage (BAG) excluding paragraph (e) of § 740.14 of the EAR;
- License Exception Aircraft, Vessels and Spacecraft (AVS) paragraphs (a) and (b) of § 740.15 of the EAR, excluding any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or Belarus, or a national of Russia or Belarus;
- License Exception (ENC) for civil end-users listed in § 746.8(c)(6) (see § 740.17 of the EAR); and
- License Exception Consumer Communication Devices (CCD) as described in § 740.19 of the EAR.

There are also very limited portions of a few license exceptions available for items destined to the so-called Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR) regions of Ukraine (the Covered Regions of Ukraine), as well as to the Crimea Region of Ukraine, including specified sections of TMP for news media; GOV; TSU; BAG; Gift Parcels and Humanitarian Donations (GFT) and Aircraft Vessels and Spacecraft (AVS).

Q2: I understand that items classified in a 5x002 ECCN are eligible for License Exception Encryption Commodities, Software and Technology (ENC) to Russia in certain circumstances. What about 5x992 items?

A2: As specified in 746.8(a) of the EAR, items classified in a 5x992 ECCN are authorized for export, reexport and transfer (in-country) without a license only to the same categories of end-users in Russia and Belarus as those eligible to receive 5x002 items under License Exception ENC. Those eligible civil end-users are:

- wholly-owned U.S. subsidiaries,
- foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries,
- wholly- owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or
- joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

Certain 5x992 items may be authorized for export, reexport, or transfer (in-country) to eligible end users under License Exception CCD as described below.

Q3: Does § 746.8 of the EAR allow the export of items eligible for License Exception ENC to persons in Russia who are independent contractors engaged directly with a U.S.-headquartered entity?

A3: No. Paragraph (c) of the license requirements for Russia and Belarus in § 746.8 states that License Exception ENC is available only to certain civil end-users, as specified in the answer to Q2 above. Independent contractors in Russia who are engaged directly with a U.S.-headquartered entity are not eligible to receive items under License Exception ENC; a license is required to export, reexport or transfer (in-country) to these end-users.

Q3a (December 2024): My company is headquartered in an A:5 country but has an employee who is working remotely in Russia. Is License Exception Encryption commodities, software, and technology (ENC) available to send or download 5D002 software to that employee in Russia?

A3a (December 2024): Yes, Section 746.8(c)(2)(vi) authorizes the use of License Exception ENC for exports of ENC-eligible items (§ 740.17 of the EAR) to ‘permanent and regular employees’ of a company that is headquartered in the United States or in countries in Country Groups A:5 and A:6 (See supplement no. 1 to part 740 for country groups and § 734.20(d)(2) for the definition of ‘permanent and regular employee,’) even if the company does not have a legally established subsidiary, branch, or sales office in Russia.

Q4: What is the scope of License Exception CCD?

A4: License Exception Consumer Communications Devices (CCD - § 740.19 of the EAR) authorizes the export and reexport of specified commodities and software to eligible recipients in Cuba, Russia, and Belarus. Eligible commodities and software are listed in paragraphs (b)(1) through (17) of §740.19 and include consumer “information security” equipment, “software” and peripherals classified under ECCNs 5A992.c or 5D992.c or designated as EAR99, and consumer “software” classified under ECCNs 4D994, 5D991 or 5D992.c or designated as EAR99. Encryption source code is not eligible for export, reexport or transfer (in-country) under this license exception.

Q5: Are business and enterprise products eligible for export, reexport or transfer (in-country) under License Exception CCD?

A5: No. Items eligible for CCD are limited to personal communication devices and software for use by individual consumers.

Q6: Can License Exception CCD be used to export to commercial entities and enterprises not owned or operated by the Russian government that sell consumer communication devices to individual Russian customers?

A6: Yes, but commercial entities and enterprises, including retail outlets, distributors, etc., must complete due diligence to ensure that items eligible for CCD are not being sold to ineligible Russian parties. (see § 740.19(c) of the EAR)