

Morgan Lewis

together

Country Sanctions Program

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Ground Rules

This webinar is not legal advice, which can only be established through creation of an attorney–client relationship.

Disclaimer

**Information is accurate as of
December 14, 2011**

**Information is subject to change without prior
notice.**

US COUNTRY SANCTIONS PRINCIPAL LAWS & REGS

AECA & ITAR

Exports, Re-exports and Temporary Imports of USML
Items

EAA & EAR

Exports and Re-exports of Dual Use Items

TWEA & OFAC Cuba Sanction Regulations

All transactions by Persons Subject to
Jurisdiction of US

US COUNTRY SANCTIONS PRINCIPAL LAWS & REGS

IEEPA & OFAC Iran/Sudan Regulations

Affects all transactions by US persons

Comprehensive Iran Sanctions, Accountability & Divestment Act OF 2010 (CISADA)

Affects certain transactions by non-US persons

Iranian Financial Sanctions Regulations

Executive Order 13590 effective Nov. 21, 2011

Statutory basis is IEEPA - affects certain transactions by non-US persons, & also sanctions such persons' non-US successors, parents and affiliates

US COUNTRY SANCTIONS PRINCIPAL LAWS & REGS

Syrian Accountability Act

Affects all imports and exports by US persons

The Proposed Obama Export Control Reform [ECR] initiatives if fully promulgated and implemented will alter the material presented in this webinar. ECR is beyond the scope of today's webinar

PRINCIPAL ADMINISTERING AGENCIES

- ✓ Dept of State's Directorate of Defense Trade Controls **[DDTC]**
- ✓ Dept of Commerce's Bureau of Industry & Security **[BIS]**
- ✓ Dept of Treasury's Office of Foreign Asset Control **[OFAC]**

Sanctioned Countries

OFAC

As of December 14, 2011
13 Countries

DDTC: Defense Articles

As of
December 14, 2011

25 Countries

ITAR

BIS: Dual Use Items

As of
December 14, 2011

5 Countries

EAR

ITAR

- ITAR 126.1 currently sanctions 25 countries
- Some countries totally prohibited, including:

Cuba

Iran

North Korea

PRC [excluding HK]

Syria

Venezuela

ITAR

- ✓ **Other Countries Partially Prohibited**

Case-by-case decision, for “non-lethal” articles, e.g. Vietnam

- ✓ **VERY rare exceptions can be granted by DDTC under ITAR 126.2 or 126.3**
- ✓ **Mandatory disclosure requirement for violations of sanctions against 126.1 countries [See 126.1(e)]**

EAR

EAR Sanctions currently apply to 5 countries:

Cuba

Iran

North Korea

Sudan

Syria

OFAC

- **Has some overlapping jurisdiction with BIS.**
- **Functions as primary agency for Cuba, Iran, and Sudan sanctions**
- **NO one-stop shop for all sanctions & embargo needs**

Each sanction program unique



OFAC Sanction Categories

- ✓ **SDNs and other OFAC “Bad Guys”**
 - Prohibitions on Dealings**
 - Blocking of Assets**
- ✓ **Country Sanctions Applicable to “US Persons”**
 - Export Prohibitions**
 - Import Prohibitions**
 - Service Prohibitions**
 - Investment Prohibitions**
 - Financial Transaction Prohibitions**

OFAC Sanction Categories

✓ Country Sanctions Applicable to “Non-US Persons”

Activity Based

Transactions in Non-US-origin items destined
for petroleum and petrochemical sectors in
Iran

OFAC: SDN's

SDN = Specially Designated National

- ✓ **Blocked Entities & SDNs**
- ✓ **Voluminous**
- ✓ **Screening toll recommended with “fuzzy” logic**
- ✓ **One of various USG “Bad Guy” Lists**

OFAC: Other OFAC Bad Guys

- ✓ **Agents/persons/companies acting for sanctioned countries**
- ✓ **Terrorists**
- ✓ **Narcotics Traffickers**
- ✓ **Proliferators of Weapons of Mass Destruction**

OFAC: SDN's & Other “Bad Guys”

US persons:

- ✓ **Are prohibited from exporting to, importing from, and otherwise dealing with, blocked entities and SDNs / other OFAC Bad Guys, no matter in which non-embargoed country SDN or other OFAC Bad Guy may be located**
- ✓ **Must block all property in which such SDNs or other OFAC Bad Guys have an interest when such property is in the US person's possession or under US person's control**

US JURISDICTION: CONCEPTUAL FRAMEWORK

US asserts jurisdiction on 3 parallel independent bases

- “WHO” is exporting**
- “WHAT” is being exported**
- Targeted industries in Iran**
- Presence of only one basis confers USG jurisdiction**

US JURISDICTION FRAMEWORK

WHO?

- ✓ Various terms used: “US person” “United States person” or “Person subject to jurisdiction of the US”
- ✓ Different term used in different sets of regulations
- ✓ Consult the definitions section of the applicable regulations for applicable definition of “who”

US JURISDICTION FRAMEWORK – WHO?

- ✓ US citizens and permanent resident aliens [US Green Card holders], wherever located
- ✓ Foreign nationals present in US
- ✓ US Corporations/entities:
 - Their foreign branches for all IEEPA based programs
 - Their foreign subs for TWEA based programs [Cuba]
- ✓ US-based Branches & subsidiaries of foreign companies
- ✓ Foreign Corporations dealing with targeted industries in Iran

US JURISDICTION FRAMEWORK – WHAT?

WHAT is being exported?

1. Products and technology exported from the US are always subject to US jurisdiction
2. Same condition re-exports are always subject to US jurisdiction
 - Includes re-exports made by foreign persons not otherwise subject to US Jurisdiction pursuant to sanctions regulations

US JURISDICTION FRAMEWORK – WHAT?

WHAT is being exported? (cont'd)

3. Foreign-made products exported by foreign persons when foreign-made products contain:

- a) Any amount of USML Content (See Through Rule)
- b) Certain EAR Content (Encryption)
- c) > 10% (de minimis) EAR controlled content -> Cuba, Iran, North Korea, Sudan & Syria
- d) > 25% EAR controlled U.S. content -> non-embargoed countries

US JURISDICTION FRAMEWORK – WHAT?

WHAT is being exported?

Foreign-made products that contain (cont'd)

- e) No US content (or < 10% controlled EAR content) destined for petroleum sector in Iran and >\$1 million per transaction or \$5 million pa
- f) No US content (or < 10% controlled EAR content) destined for petrochemical sector in Iran and >\$250,000 per transaction or \$1 million pa

De MINIMIS COMPUTING

When computing de minimis % for EAR Content

- ✓ **DO NOT count content that is EAR 99**
- ✓ **DO count content that is ECCN controlled**

Exports by NON-US persons of foreign-made goods with no US content or less than 10% EAR origin controlled goods / technology are not subject to US jurisdiction unless:

- ✓ **destined to Iran &**
- ✓ **caught by CISADA or by Nov. 21, 2011 Executive Order 13590...**



CUBA

Cuban Sanction Regs (TWEA)



CUBA

“Who”

1. US citizens and permanent resident aliens, wherever located
2. Foreign nationals present in US
3. Corporations/entities organized under any US laws
including their foreign branches and foreign subs
4. US-based Branches & subsidiaries of foreign companies

No other embargo regime currently extends US jurisdiction generally over foreign subsidiaries except CISADA & E.O.13590 (Iran) which reach all foreign companies in certain instances

CUBA: GENERAL PROHIBITION ON ALL TRANSACTIONS

- ✓ **Strictest of all US Embargoes**
- ✓ **Prohibit all financial transactions and all financial dealings with Cuba or with a Cuban national without an OFAC license**
- ✓ **Prohibit PSJUS from approving, guaranteeing and / or brokering any transaction involving Cuba or a Cuban national without an OFAC license.**

IMPORTS FROM CUBA

- ✓ No goods or services of Cuban origin may be imported into US either directly or thru third country
- ✓ Only exception for information or informational materials or certain artwork



EXPORTS TO CUBA

All exports and re-exports of goods and services by PSJUS are prohibited

Licenses for Cuba may be granted by BIS for:

- ✓ **Agricultural commodities**
- ✓ **Medicine and medical devices**
- ✓ **Travel**
- ✓ **Religious, journalism, humanitarian**
- ✓ **Family remittances**

TRANSFERS TO CUBA FROM OUTSIDE US

All transfers outside US prohibited when PSJUS
involved (unless licensed)

→ **PSJUS:**

1. US citizens and permanent resident aliens [US Green Card holders], wherever located
2. Foreign nationals present in US
3. Corporations/entities organized under any US laws including their foreign branches and foreign subs [TWEA based]
4. US-based Branches & subsidiaries of foreign companies

TRANSFERS TO CUBA FROM OUTSIDE US

All transfers outside US are prohibited by non-PSJUS when goods involved are subject to US jurisdiction (unless licensed)

→ **Goods subject to US jurisdiction:**

- Goods exported from US or
- Re-exports from third countries of goods originally exported from the US
- Exports of foreign-made goods that contain any USML or certain dual use items (encryption)
- Exports of foreign-made goods that contain > 10% EAR controlled content

Foreign-made products that contain no US content (or < 10% EAR controlled content) are not subject to US jurisdiction on basis of “What Jurisdiction” but will be prohibited from export to Cuba if made by PSJUS.

RECENT LIBERALIZATION FOR CERTAIN ACTIVITIES

- **Obama Administration has liberalized Cuba regulations in several ways**
 - **Visit relatives, educational programs, religious activities**
 - **Remittances for such activities, to relatives, and non relatives**

RECENT LIBERALIZATION FOR CERTAIN ACTIVITIES

- ✓ **OFAC may license services incident to exchange of information over Internet**
- ✓ **Marketing rules for sales of agricultural and medical goods**
- ✓ **Transactions by US persons with Cuban nationals who have taken up residency outside Cuba**

IRAN

Iran Sanctions: IEEPA, CISADA & EO 13590



IRAN: “Who”

- 1. US citizens and permanent resident aliens [US Green Card holders], wherever located**
- 2. Foreign nationals present in US**
- 3. Corporations/entities organized under any US laws
including their foreign branches [IEEPA based]**
- 4. US-based Branches & subsidiaries of foreign companies**

**PSJUS UNDER Iran sanctions do not include foreign
subs of US Companies - watch out for CISADA & E.O. 13590**

IRAN: GENERAL PROHIBITION ON ALL TRANSACTIONS

- ✓ **Prohibit all financial transactions and all financial dealings with Iran or with a Iranian national without an OFAC license**
- ✓ **Prohibit PSJUS from approving, guaranteeing and / or brokering any transaction involving Iran or an Iranian national without an OFAC license.**
- ✓ **Prohibit PSJUS from “facilitating” transaction with Iran**

IMPORTING FROM IRAN

No goods or services of Iranian origin may be imported into US either directly or through third country

- **Import of foodstuffs and carpets of Iranian origin was revoked pursuant to section 103 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.**

EXPORTS TO IRAN

GENERAL PROHIBITION ON EXPORTS

- No products, technology or services may be exported to Iran from the US or from third countries by “US person” without an OFAC license [31 CFR 560.204]
- No facilitation by “US person” of any transaction by a foreign person that a “US person” cannot do [31 CFR 560.417]

LIMITED EXPORT LICENSES FOR IRAN

OFAC may license certain exports to Iran:

- ✓ **Agricultural commodities**
- ✓ **Medicine and Medical Devices**
- ✓ **Services incident to exchange of information over Internet**



GENERAL LICENSE FOR FOOD

**New OFAC general license
10/12/2011**

**Exports/reexports of food
[31 CFR 560.530(a)(2)]**

**Also authorizes necessary
related services, e.g.,
transportation, insurance,
financing & payment**

**No food sales to military or
law enforcement purchasers.**



TRANSFERS TO IRAN FROM OUTSIDE US

All transfers outside US prohibited when PSJUS involved (unless licensed)

→ **PSJUS:**

1. **US citizens and permanent resident aliens, wherever located**
2. **Foreign nationals present in US**
3. **Corporations/entities organized under any US laws including their foreign branches [IEEPA based]**
4. **US-based Branches & subsidiaries of foreign companies**

TRANSFERS TO IRAN FROM OUTSIDE US

All transfers outside US are prohibited when goods involved are subject to US jurisdiction (unless licensed)

→ **Goods subject to US jurisdiction:**

- Goods exported from US or
- Re-exports from third countries of goods originally exported from the US
- Exports of foreign-made goods that contain any USML or certain dual use items (encryption)
- Exports of foreign-made goods that contain > 10% US-origin controlled content

TRANSFERS TO IRAN FROM OUTSIDE US

Goods not otherwise subject to US JD =

Foreign-made products that contain no US content (or < 10% US origin content) are not subject to US jurisdiction on basis of “What Jurisdiction” but will be prohibited if:

- ✓ Transferred by PSJUS or
- ✓ Destined for the petroleum or petrochemical sectors in Iran (>\$1/250K million per T/A or > \$5/1 million pa)
- ✓ CISADA & E.O.13590

TRANSFERS / RE-EXPORTS TO IRAN FROM OUTSIDE US

- **Section 102 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 [CISADA] amended Iran Sanctions Act of 1996**
- **Sanctions NON-US persons in certain cases of investment in, or transferring goods/technology/services, to Iran petroleum sector containing either:**
 - **zero % US-origin content or**
 - **< 10% US origin content**

CISADA

President to impose at least 3 sanctions, from an enlarged menu of 9 possible sanctions, against any US or non-US person or company who, the President finds has knowingly:

1. Made an investment of \$20 million or more that directly and significantly contributes to Iran's ability to develop its own petroleum resources or makes combination of investments in 12-month period if each investment = \$5M and totals \$20M in 12-month period;
2. Provided, sold or leased to Iran certain refined petroleum products, valued at over \$1 million or during 12-month period exceed \$5M;

CISADA

3. **Provided, sold or leased to Iran goods, services, technology, information or support valued at over \$1 million or exceeded \$5 million over the past 12 months, that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products, including any direct and significant assistance with respect to the construction, modernization or repair of petroleum refineries**

CISADA

- “Services” or “support” under CISADA may be broadly defined by US enforcement officials, and therefore may include various financial services which USG believes facilitate Iran’s petroleum sector
- USG Contracting – In order to bid on any USG contract, US parent of a non-US subsidiary must certify that its subsidiary is NOT engaged in any prohibited CISADA activity. False certification can lead to debarment.

CISADA IRANIAN FINANCIAL SANCTIONS REGULATIONS

- IFSR promulgated pursuant to Sec. 104 of CISADA issued August 16, 2010
- Codified in 31 CFR Part 561
- Primarily goal is to influence non-US financial institutions conducting business with US-designated “bad” Iranian parties by imposition of conditions and mandates on access to US financial institutions

EXECUTIVE ORDER 13590

- E.O. 13590 became effective Nov. 21, 2011
- No implementing regulations issued yet
- E.O. cites as statutory basis IEEPA, not CISADA
- Authorizes sanctions against non-US person violators **and such non-US person violators' non-US successors, parents, subsidiaries and affiliates.**

EXECUTIVE ORDER 13590

- Authorizes sanctions against any person [US or non-US] who knowingly sells, leases, or provides to Iran
- Goods, services, technology or support - that has a value of \$1M or more, or \$5M in a 12-month period that
- Could directly & significantly contribute to the maintenance or enhancement of Iran's ability to develop petroleum resources located in Iran.

EXECUTIVE ORDER 13590

- Authorizes sanctions against any person [US or non-US] who knowingly sells, leases, or provides to Iran
- Goods, services, technology or support - that has a value of \$250,000 or more, or \$1M in a 12-month period that
- Could directly & significantly contribute to the maintenance or expansion of Iran's domestic production of petrochemical products.

EXECUTIVE ORDER 13590

- Goods/technology/services need not meet any de minimis US-origin content requirement
- First time that Iran petrochemical industry is expressly targeted- note \$ thresholds lower than CISADA.
- E.O. defines petrochemical products = any aromatic, olefin and synthesis gas, and any derivative, e.g. ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol & urea.

EXECUTIVE ORDER 13590

- Also directly sanctionable:
- A US or non-US successor entity to a person referred to in previous E.O. 13590 slides for prohibited transactions with petroleum and petrochemical sectors in Iran.

EXECUTIVE ORDER 13590

- Also directly sanctionable:
- A US or non-US entity that owns or controls a person referred to in previous E.O. 13590 slides for prohibited transactions with petroleum and petrochemical sectors in Iran, and had actual knowledge or should have known that the primary violator engaged in prohibited activities.
- Thus US or non-US Parent of violating US or non-US subsidiary can be sanctioned

EXECUTIVE ORDER 13590

- Also directly sanctionable:
- A US or non-US entity that is owned or controlled by, or under common ownership with, a person referred to in previous E.O. 13590 slides for prohibited transactions with petroleum and petrochemical sectors in Iran, and had actual knowledge or should have known that the primary violator engaged in prohibited activities.
- Thus US or non-US Sub and/or affiliate of violating US or non-US parent can be sanctioned

EXECUTIVE ORDER 13590

- We are not aware of another E.O. or sanction regulation that expressly subjects non-US successors, parents, subsidiaries and/or affiliates to such direct liability in this way
- IEEPA, and not CISADA/TWEA is cited as authority for E.O. 13590.
- Foreshadow USG understanding of USG extraterritorial jurisdiction in order to extend other IEEPA sanctions programs to non-US successors, parents, subsidiaries or affiliates of primary US or non-US violator?

EXECUTIVE ORDER 13590

- Possible Sanctions imposable under E.O. 13590
- Denial of Export-Import Bank credits & guarantees
- Denial of export licenses and other authorizations
- If sanctioned entity is financial institution - no dealing in USG debt instruments and cannot be repository of USG funds
- NO USG contracting/procurement

EXECUTIVE ORDER 13590

- Denial of private US Bank loan of more than \$10M per 12 month period in most cases
- Denial of transactions in foreign exchange subject to US jurisdiction
- Denial of certain financial transactions subject to US jurisdiction
- Blocking of property interest rights subject to US jurisdiction
- Denial of imports into US from violator

NORTH KOREA



NORTH KOREA

- President terminated application of TWEA in June 2008
- Subject to ITAR Embargo
- EAR license requirements 15 CFR 746.4
- New OFAC regulations published under IEEPA Nov. 4, 2010, 31 CFR Part 510, revised on June 20, 2011

NORTH KOREA

- Under 31 CFR Part 510 certain property of North Korea and North Korean nationals are blocked as required by Executive Orders.
- Blocked parties include persons/entities determined by USG to be facilitating trafficking in arms, money laundering, counterfeiting and other activities.

NORTH KOREAN IMPORTS

- E.O. 13570 issued April 18, 2011
- Goods, services or technology of North Korean Origin may NOT be imported into US either directly or indirectly without OFAC license.
- Cannot register, use or lease North Korea flagged vessel

NORTH KOREA

- US persons prohibited from transferring, paying, exporting, withdrawing or otherwise dealing in property and interests in property of any person or entity that is blocked.
- Such transactions are declared null and void and have no legal effect in US

NORTH KOREA

License is required to export or reexport any items subject to the EAR

- ✓ Except food or medicine classified EAR 99

Items requiring BIS license subject to case-by-case review

- ✓ Luxury goods = general policy of denial
- ✓ UN designated items = general policy of denial

NORTH KOREA

- **General Policy of Approval for Licenses to export or re-export:**
 - ✓ humanitarian items
 - ✓ items to benefit NK people
 - ✓ in support of UN efforts
 - ✓ agricultural commodities or medical devices

SUDAN



SUDAN: “WHO”

- 1. US citizens and permanent resident aliens, wherever located**
- 2. Foreign nationals present in US**
- 3. Corporations/entities organized under any US laws including their foreign branches [IEEPA based]**
- 4. US-based Branches & subsidiaries of foreign companies**

PSJUS UNDER Sudan sanctions do not include foreign subs of US Companies (IEEPA).

SUDAN

- **Subject to ITAR Embargo**
- **OFAC and BIS share licensing jurisdiction for exports & reexports for Sudan**
- **OFAC 31 CFR Part 538**
- **EAR:**
 - Sudan not specifically listed in 15 Part 746 but see EAR 742.10 and also relevant ECCN and EAR country chart for Sudan**

SUDAN

- OFAC licenses all exports, including EAR 99 items [agricultural commodities, medicine]
- BIS licenses items on the CCL only
 - **This means for a CCL item, a license may be required from both BIS & OFAC**
- Applications for humanitarian items or in support of UN efforts = likely approval
- New OFAC license available for exported services to Sudan incident to sharing information over the internet

SUDAN-GENERAL LICENSE FOR FOOD

New OFAC general license 10/12/2011

Exports/reexports of food [31 CFR 538.523(a)(3)]

**Also authorizes necessary related services, e.g.,
transportation, insurance, financing & payment**

No food sales to military or law enforcement purchasers.

SUDAN-GENERAL LICENSE RELATING TO REPUBLIC OF SOUTH SUDAN

2 New OFAC general licenses as of 12/8/2011

31 CFR 538.536

Authorizes all activities & transactions relating to petroleum & petrochemical industries in Rep. of South Sudan including transshipment of goods, technology & services to/from South Sudan thru Sudan & related financial transactions.

SUDAN-GENERAL LICENSE RELATING TO REPUBLIC OF SOUTH SUDAN

31 CFR 538.537

Transit or transshipment of goods, technology & services thru Sudan, to or from Rep. of South Sudan are authorized, as well as all related financial transactions ordinarily incident thereto.

SOUTHERN SUDAN

- **New State of Southern Sudan is NOT be subject to OFAC Sudan sanction Regulations on the ground it is another country.**
- **Regulations continue to apply to remainder of “old” Sudan**

SUDAN RE-EXPORTS BY NON-US PERSONS

31 CFR 538.507 authorizes reexport by a NON US person of controlled US-origin goods/technology, provided:

- ✓ Have been incorporated into another product outside US and constitute 10% or less by value of that product exported from a third country; or
- ✓ “Substantially transformed” outside US
- ✓ Reexports authorized by 538.507 may still require specific authorization from BIS

SUDAN

- Unless licensed, all financial dealings with Sudan are prohibited, including performance by any US person of any contract, including a financing contract, in support of an industrial, commercial, public utility or governmental project in Sudan
- OFAC Regulations prohibit facilitation by a US person of the direct or indirect exportation or reexportation of services to/from Sudan.

SYRIA



SYRIA

- Subject to ITAR Embargo
- OFAC regulations 31 CFR Part 542 overlap jurisdiction with EAR General Order # 2 in Supp. #1 to 15 CFR Part 736.
- Effective Dec. 12, 2011 G.O. # 2 substance copied to new EAR provisions in 15 CFR 746.9. Portions of G.O. # 2 also remain in effect because of wording in Executive Orders
- The “WHO” = “United States persons” does not extend to foreign subsidiaries of US parent firms 31 CFR 542.312

SYRIA

- **US person shipments – prohibited w/o license**
- **NON-US person shipments – prohibited with respect to property subject to US jurisdiction w/o license**
- **The “WHAT” = goods exported from US or foreign made w/ 10%+ US –origin controlled content = US jurisdiction [15 CFR 734.4(c)]**

SYRIA

- Re-exports of foreign made goods by NON-US person to Syria of less than 10% US-origin controlled content is not subject to US jurisdiction.
- **Don't count EAR 99**

LICENSABILITY FOR SYRIA

Apply for license to BIS

- ✓ Food [not exactly same as TSRA agricultural commodities]
- ✓ Medicine
- ✓ Certain Telecom Equipment, & related Computers, Software & Technology
- ✓ Parts to ensure safety of civil aircraft
- ✓ Items needed by USG or United Nations

SYRIA

- **Presidential E.O. 13572 effective April 29, 2011, blocked property interests of certain persons as designated by USG, who have materially assisted in human rights abuses in Syria**
- **US persons cannot contribute or provide funds, goods, or services to, or for the benefit of, any person whose property is blocked.**
- **US person cannot receive any contribution or provision of funds, goods or services from a person who is blocked**

SYRIA

SERVICES

- **Executive Order 13582 effective August 18, 2011.**
- **Section 2(b) of the E.O. prohibits the exportation, sale or supply from the United States, or by a United States person, of any services to Syria.**

SYRIA

- Detailed regulations promulgating E.O. 13582 have not yet been issued.
- In the absence of such regulations, we counsel that the E.O. prohibits the provision of all services to any Syrian entity, to any person in Syria or where the services' benefits will be received in Syria.

SYRIA

- **OFAC has issued 14 Syria General Licenses under E.O. 13582**
- **These General Licenses must be carefully reviewed to see if all the facts of a particular situation would allow a US person to export, reexport or provide services to Syria.**

LIBYA



LIBYA

- **No US government overarching embargo against Libya.**
- **Subject to ITAR Embargo but DDTC to allow certain case-by-case approvals, effective 11/4/11. See 22 CFR 126.1(k)**
- **US export license requirements under ITAR and EAR for exports and reexports of products to Libya.**

LIBYA

- **For EAR 99 products, no product-specific export license is required for Libya.**
- **Need to consider export license requirements that are based on end use or end user.**
- **For products with specific ECCNs other than EAR 99 – a case-by-case analysis is required to see if the specific product proposed for export requires a license.**

LIBYA

- **February 25, 2011 President issued E.O. 13566, which resulted in the blocking the property of certain persons or of the Government of Libya, its agencies, instrumentalities and controlled entities. Regulations implementing E.O. 13566 codified July 1, 2011 in 31 CFR Part 570.**
- **However there have been changes in light of recent events in Libya and the fall from power of Qadhafi.**

LIBYA

- On Sept. 23, 2011, OFAC issued General License 8A
- GL 8A authorizes any transaction involving contracts that were blocked because of an interest therein by the Government of Libya
- All transactions involving Government of Libya, its agencies, instrumentalities and controlled entities and the Central Bank of Libya **ARE authorized**; subject to these limitations:

LIBYA

- All funds and accounts previously blocked remain blocked, except as provided in G.L.7A [G.L. 7A allows transactions with certain oil companies];
- The transactions do not involve a person or entity that is blocked
- **NOTE: Libya SDN list modified 11/18/11 deleting many entities from SDN list. Hence such de-listed entities are no longer blocked. Check OFAC web site.**

LIBYA

- **Prohibited for US person to contribute or provide funds, goods or services to, or for the benefit of, any person whose property is blocked.**
- **Prohibited for US person to receive any contribution or provision of funds, goods or services from any person whose property is blocked.**
- **Transactions with entities or persons not blocked by E.O. 13566 remain possible, subject to export controls noted**

BURMA [MYANMAR]



BURMA [MYANMAR]

- Subject to ITAR Embargo
- OFAC sanctions 31 CFR Part 537
- No general prohibition on exports or reexports of goods
- Restrictions on financial services to Burma
- Targeted Blocking of certain Burma persons' property – OFAC list of Burma SDNs
- Exports/reexports constrained due to ban on financial services

BURMA [MYANMAR]

- **No investment in, or export of financial services by US person to, Burma**
- **No transfer of funds directly or indirectly from US or by US person to Burma**
- **US person can't facilitate insurance services, investment/brokerage/banking services, money remittances, loans, guarantees, or credit to Burma**

BURMA [MYANMAR]

- Burma is in EAR Country Group D:1
- EAR imposes license requirements for exports and reexports for items subject to EAR to persons designated by OFAC
 - Except for agricultural commodities, medicine or medical devices designated EAR 99

BURMA [MYANMAR]

- General import ban into US of Burma-origin products
 - Limited Exception for certain jadeite or ruby jewels



IRAQ



IRAQ

- **Subject to ITAR Embargo**
- **No general export prohibition to Iraq.**
- **Exports & reexports to Iraq must be licensed by BIS.**
- **EAR 746.3 states BIS licensing policy**
- **OFAC issued revised Iraq regulations on Sept. 13, 2010, codified in 31 CFR Part 576 which block the property or impose asset freeze on designated parties.**

IRAQ

- **Prohibited for US person to contribute or provide funds, goods or services to, or for the benefit of, any person whose property is blocked.**
- **Prohibited for US person to receive any contribution or provision of funds, goods or services from any person whose property is blocked.**

IRAQ

- License required for any items on CCL for NS, MT, NP CW, CB, RS, CC, EI
- EAR 746.3 license requirement for the export, reexport or transfer of items subject to the EAR if, for a "military end use" or by a "military end user" as these terms are defined in EAR 746.3.

IRAQ

EAR Part 744 license requirements – end use / end user:

- ✓ nuclear activities;
- ✓ rockets and missiles;
- ✓ unmanned air vehicles;
- ✓ chemical and biological weapons.

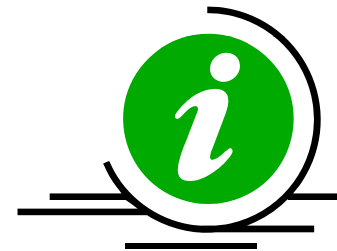
IRAQ

- **Some AT items do and some AT items do not require license – depends on ECCN.**
- **EAR99 items generally not be subject to a license requirement except end-user and end-use controls EAR Part 744 and 746.3**

COUNTRY SANCTIONS

QUESTIONS?

COMMENTS?



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