

**ALE International Guidance:  
United States Sanctions and Encryption Export Controls**

*The purpose of this document is to provide guidance to ALE International Business Partners regarding compliance with United States export control laws and regulations when exporting, re-exporting or transferring U.S. items. It is not legal advice and is not intended to be a complete explanation of U.S. export control law. The information contained in this document is not a substitute for the U.S. Export Administration Regulations, which can be found at the following URL:*

[https://www.ecfr.gov/cgi-bin/text-idx?SID=f768efe7b6846f13cdb7f3512e69d165&tpl=/ecfrbrowse/Title15/15cfrv2\\_02.tpl#700](https://www.ecfr.gov/cgi-bin/text-idx?SID=f768efe7b6846f13cdb7f3512e69d165&tpl=/ecfrbrowse/Title15/15cfrv2_02.tpl#700)

Many ALE International products are subject to U.S. export and re-export controls because they were produced in the United States or contain significant U.S.-origin content. For these products, you are required to comply with U.S. export control regulations when you export, re-export or transfer them to your customer or any other individual, organization or entity. This requirement applies even when the product will be used only temporarily, such as for testing or evaluation. In addition to monetary fines, the possible penalties for not complying with these requirements include being prohibited from receiving all U.S. items (see information below concerning the Denied Persons List)

In particular, we would like you to note that certain ALE International products contain encryption, and have been granted authorization for export or re-export under License Exception ENC, Export Administration Regulations (EAR) §740.17, as either “restricted” or “unrestricted” products.

For purposes of this guidance, the term “restricted” is used to refer to a product that has been granted eligibility for export under License Exception ENC, sub-paragraph (b)(2). The term “unrestricted” is used to refer to a product that is eligible for License Exception ENC, sub-paragraphs (b)(1) or (b)(3). If you are unfamiliar with these provisions, please consult the encryption guidance on the BIS web site at <https://www.bis.doc.gov/index.php/policy-guidance/encryption>

Additional guidance on exporting these two types of encryption products is included below.

**1. All U.S. Products**

The shipment of any U.S. product requires a license issued by the U.S. Government in the following circumstances:

1. You intend to ship the product to Crimea, Cuba, Iran, North Korea, Sudan or Syria
2. The product will be used in a prohibited activity, including nuclear activities and development or manufacture of weapons of mass destruction or the means to deliver them. Prohibited activities also cover Russian Industry Sector sanctions.
3. A party to your transaction is a “restricted party” (see **Definitions** section below)

Before placing an order with ALE International, the Business Partner is responsible for determining if the sale requires a license based on these requirements. This includes checking the companies or entities involved in the transaction to verify that they are not restricted. The definition of “restricted party” below includes information on how to check the various U.S. Government lists.

## **2. “Unrestricted” Encryption Products**

Encryption products that are “unrestricted” may be exported or re-exported to commercial and government end users in all countries, except Crimea, Cuba, Iran, North Korea, Sudan or Syria, provided no party to the transaction is a “restricted party” and the customer will not use the product in a prohibited activity (see **All U.S. Products** section above). The authorization for shipments of “unrestricted” encryption products is License Exception ENC.

## **3. “Restricted” Encryption Products**

Encryption products that are “restricted” may be exported or re-exported to commercial and government end users in the following countries, provided no party to the transaction is a “restricted party” and the customer will not use the product in a prohibited activity (see **All U.S. Products** section above):

Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom [includes Great Britain + Ireland (northern)] and the United States.

The authorization for shipments to these countries is License Exception ENC. For all other countries, you may also use License Exception ENC to ship to commercial end users, but **not** to government end users. For shipments to government end users located in countries other than those listed above, **you will need a license issued by the U.S. Government or other authorization under the EAR**. See the **Definitions** section below for the meaning of the term “government end user”.

You should review your sales carefully to identify restricted encryption items and government customers who meet the definition of government end user.

***ALE International will not provide any items or services related to restricted items to government end users if the required U.S. export license was not obtained.***

#### **4. Important Note Regarding Follow-on Items and Support**

Please note that ALE International is prohibited by U.S. law from providing items or services (e.g. spare parts, additional products, software updates, technical support) if we become aware that the product you purchased from us:

- was shipped to Crimea, Cuba, Iran, North Korea, Sudan or Syria without the required license
- is being used in a prohibited activity
- is being used by a restricted end user
- is a restricted encryption item that was shipped to a government end user without the required license

#### **5. Significant EAR changes introducing further restrict Exports to China, Cambodia, Hong-Kong, Myanmar, Russia, Venezuela**

Since June 2020 the US Government is amending and expanding EAR §744.21 restrictions on certain 'military end use' or 'military end user' in the People's Republic of China\*, Russia, or Venezuela. (\*incl. Hong Kong)

(a) General prohibition. In addition to the license requirements for items specified on the Commerce Control List (CCL), you may not export, reexport, or transfer (in-country) any item subject to the EAR listed in Supplement No. 2 to part 744 to the People's Republic of China (China), Russia, or Venezuela without a license if, at the time of the export, reexport, or transfer (in-country), you have "knowledge," as defined in §772.1 of the EAR, that the item is intended, entirely or in part, for a 'military end use,' as defined in paragraph (f) of this section, or 'military end user,' as defined in paragraph (g) of this section, in China, Russia, or Venezuela.  
<https://www.bis.doc.gov/index.php/documents/pdfs/2566-2020-meu-faq/file>

#### **BIS published a new interim final rule effective since March 16th, 2021**

Among other things, this rule creates a new EAR 744.22 licensing requirement (beyond 744.21 'MEU' controls) military-intelligence end users/uses, for any item subject to the EAR, going to China, Cambodia, Hong Kong, Myanmar, Russia, Venezuela, and Group E\* countries. This may capture some ENC unrestricted items that did not have a license requirement under the current 744.21 MEU controls. (\*E:1 IR, KP, SY ; E:2 CU as of March 8th, 2021)

<https://www.federalregister.gov/documents/2021/01/15/2021-00977/expansion-of-certain-end-use-and-end-user-controls-and-controls-on-specific-activities-of-us-persons>

#### **6. Important Note Regarding the Information in this Document**

Please note that U.S. export control regulations and web sites can change at any time. To the best our knowledge, the information in this document concerning requirements and web sites was correct on the date it was issued, and we will make every attempt to update the document

when changes occur. However, it is your responsibility to comply with U.S. export control requirements when you ship products that are subject to these requirements, in accordance with the regulations in effect when you make the shipment. ALE International does not warrant the correctness of this information and does not accept any responsibility or liability for your compliance with U.S. export control laws and regulations.

## **7. Definitions**

**“Government end-user”** (as applied to encryption items): A government end user is any foreign central, regional or local government department, agency, or other entity performing governmental functions; including governmental research institutions, governmental corporations or their separate business units (as defined in part 772 of the EAR) which are engaged in the manufacture or distribution of items or services controlled on the Wassenaar Munitions List, and international governmental organizations. This term **does not include**: Utilities (including telecommunications companies and Internet service providers); banks and financial institutions; transportation; broadcast or entertainment; educational organizations (except public schools and universities); civil health and medical organizations (including public civilian hospitals); retail or wholesale firms; and manufacturing or industrial entities not engaged in the manufacture or distribution of items or services controlled on the Wassenaar Munitions List.

(see “Control Lists” at <https://www.wassenaar.org/> ).

**“Restricted party”** is an individual, organization or entity that is on one of various U.S. Government restricted lists because they have violated export controls, are engaged in proliferation activities, are involved in terrorism, are designated nationals of embargoed countries, etc. The lists to check, including links to the web sites where each list can be found, are at the following web site:

[https://export.gov/ecr/eg\\_main\\_023148.asp](https://export.gov/ecr/eg_main_023148.asp)

<https://www.trade.gov/consolidated-screening-list>

The following lists are some of the currently accessible at this web site:

**Denied Persons List** A list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order are prohibited.

**Unverified List** A list of parties that are ineligible to receive items subject to the Export Administration Regulations (EAR) by means of a license exception. In addition, exporters must obtain a statement from such parties prior to exporting, reexporting, or transferring to such parties any item subject to the EAR which is not subject to a license requirement.

**Entity List** A list of parties whose presence in a transaction can trigger a license requirement under the U.S. Export Administration Regulations. The list specifies the license requirements that apply to each listed party. These license requirements are in addition to any license requirements imposed on the transaction by other provisions of the U.S. Export Administration Regulations.

**Specially Designated Nationals List** A list compiled by the U.S. Treasury Department, Office of Foreign Assets Control (OFAC). OFAC's regulations may prohibit a transaction if a party on this list is involved. In addition, the U.S. Export Administration Regulations require a license for exports or re-exports to any party in any entry on this list that contains any of the suffixes "SDGT", "SDT", "FTO" or "IRAQ2".

**Nonproliferation Sanctions** Several lists compiled by the U.S. State Department of parties that have been sanctioned under various statutes. The Federal Register notice imposing sanctions on a party states the sanctions that apply to that party. Some of these sanctioned parties are subject to BIS's license application denial policy described in §744.19 of the EAR (15 CFR §744.19).

**Contact us for any question:**

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<https://www.al-enterprise.com/>

Since **1st of April 2015**, Alcatel-Lucent Enterprise moved to ALE International