Guidance Document for Exporting Items Subject to Export Administration Regulations (EAR)

Purpose: To assist PI's and Export Control Specialist in performing the appropriate steps for exporting items subject to the EAR
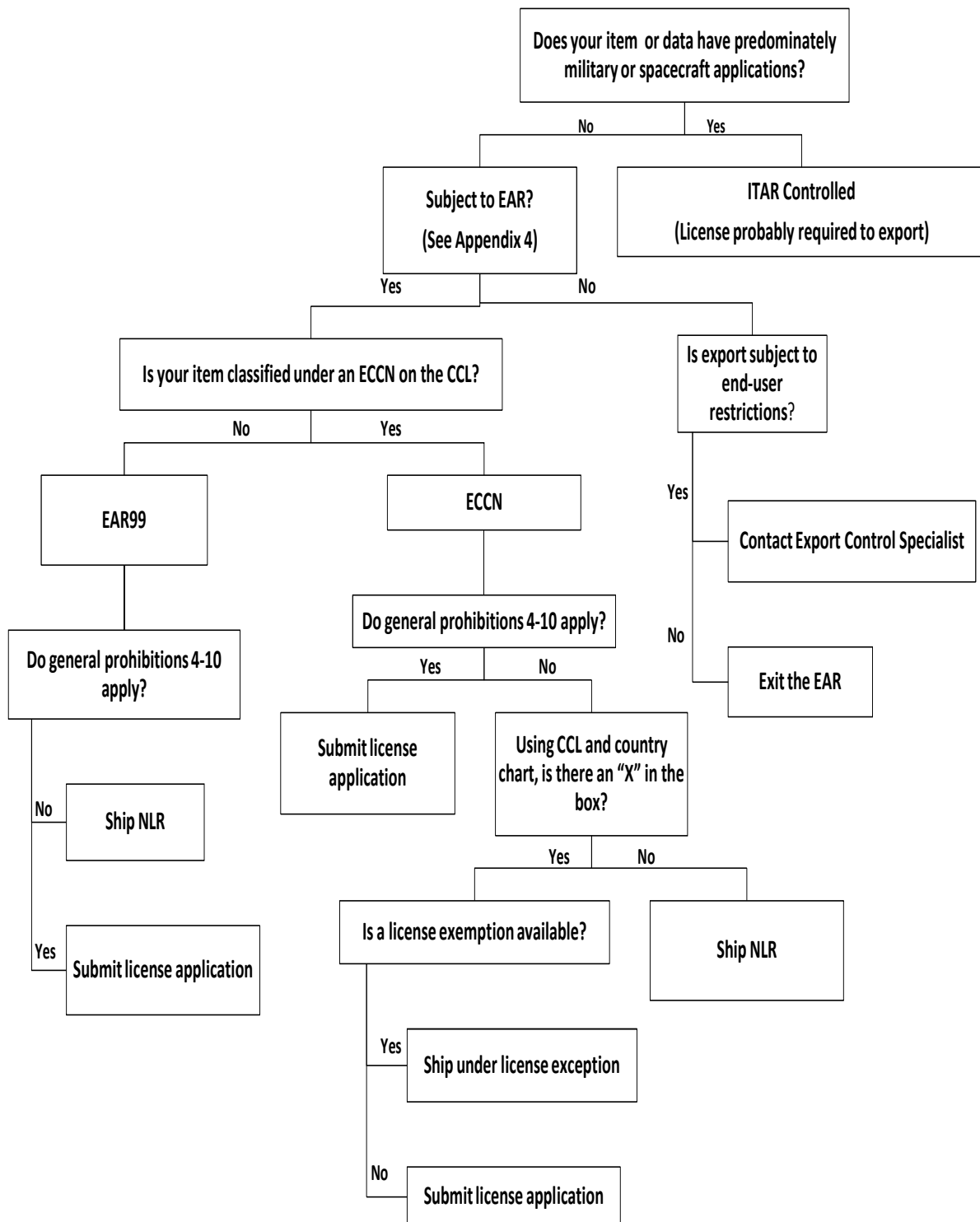
1. Determine if the item is subject to the EAR, see 734.2-5. (Appendix 1, EAR/ITAR Decision Tree and Appendix 2 Subject to EAR?)

2. If item is subject to EAR determine its five digit export control classification number (ECCN). (Appendix 3).
    a. If subject to EAR but not listed on CCL it is classified as EAR99.
    b. If unsure about the correct ECCN, submit a Commodity Classification Request to Bureau of Industry and Security. Note: only empowered officials may submit this request.

3. Determine if general prohibitions apply to the export. (Appendix 4)
    a. If YES submit an application for a license.
    b. IF NO for EAR99, No License is Required (NLR)
    c. If NO for other ECCN's check the Commerce Country Chart (Supplement #1 to Part 738)
        i.   If no "X" in the country box for the reasons of control then NLR
        ii. If box has "X", check to see if a license exemption is available.
            1. The sixteen license exemptions available are listed in Appendix 5.
            2. If "YES" use the license exemption three letter abbreviation in the shipping paperwork to facilitate customs clearance. See section 740 of the EAR.
            3. If "NO" submit an application for a license

4. Submitting a license application
    a. All license applications are submitted online by the Export Control Specialist at: http://www.bis.doc.gov/SNAP/pinsnapr.htm .
        i.   For first time users obtain a Company Identification Number (CIN) and Personal Identification Number (PIN) for each user in the company at the SNAP-R website **https://snapr.bis.doc.gov** . (Empowered Officials only)
    b. After the correct ECCN is determined, complete and submit an Export License Application
    c. Complete and submit any supporting documents, see part 748.9 of the EAR
        i.   End-User Statement if required, see part 748.10
        ii. Statement by ultimate consignee and purchaser, see part 748.11
        iii. Import certificate from end-users country if required, see supplement #4 to part 748.

5. Automated Export System (AES)
    a. The export control specialist will:
        i.   register with AES
        ii. Determine if shipment is exempt from filing
            1. Shipments destined for Canada.
            2. Tools of trade which are hand carried, personal or company use, not for sale, not shipped as cargo and returned within 1 year.
            3. Intangible exports of software and technology.
            4. Items with a value of <$2500 and no license is required.

iii. Submit shipping information to AES
1. Shipping information will be in the form of Electronic Export Information (EEI)
2. Some shipments require predeparture filing before the item leaves Southern Research Institute.
3. For shipments not requiring predeparture filing the filing must be submitted within 10 days after exportation.
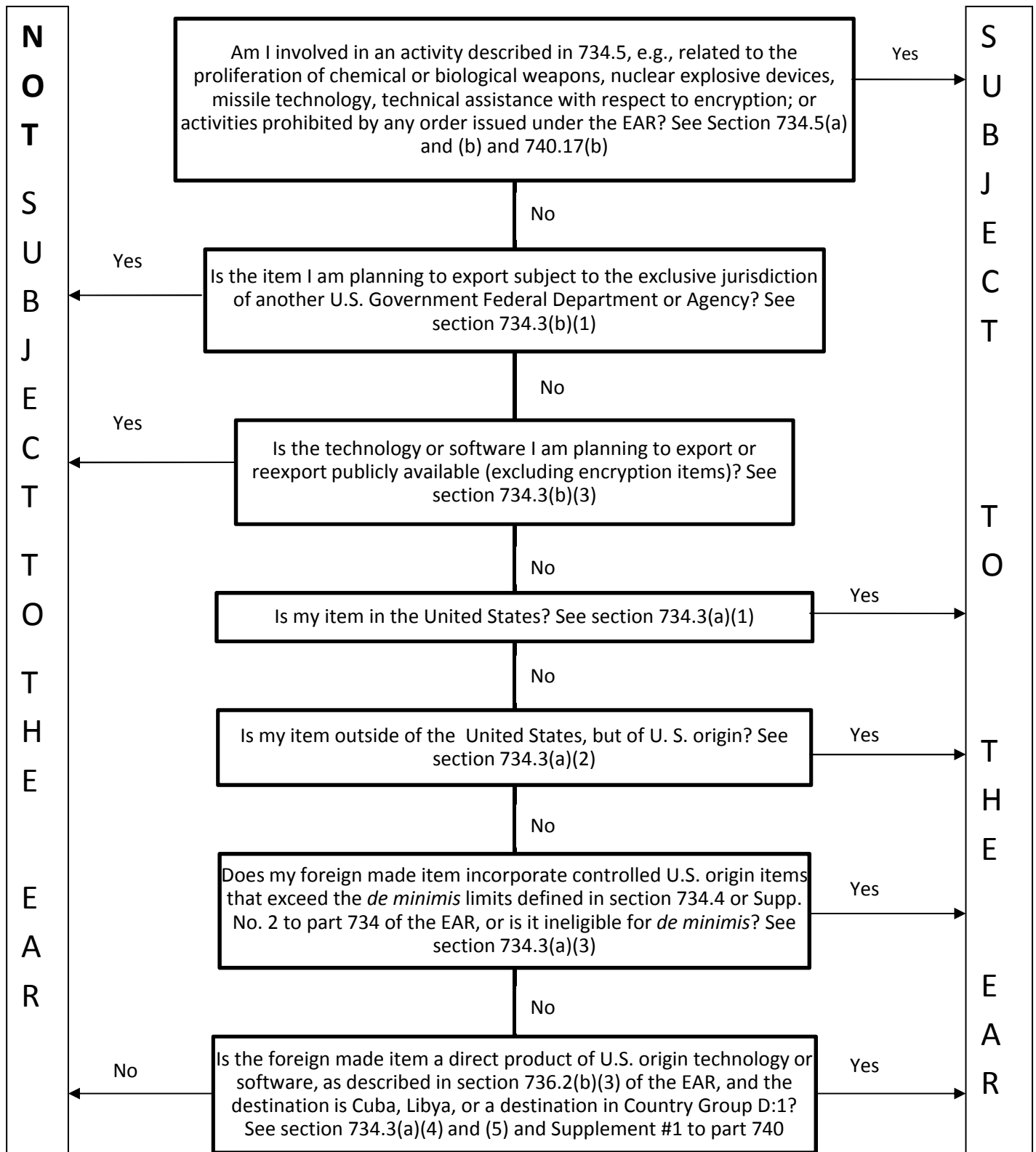
6. Shipping
   a. The shipper will:
      i. Ensure the export control specialist has the needed information for AES
      ii. Ensure the recipient and end-user have been vetted with Visual Compliance
      iii. Include the ECCN and license number if required on all shipping paperwork
      iv. Include destination control statement on invoice, bill of lading, and other paperwork that accompanies shipment for all items on the CCL except for EAR99.
         1. "These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited."
      v. Prepare a commercial invoice
      vi. Prepare bill of lading, airway bill or other loading document.
         1. If no Electronic Export Information (EEI) is required, the airway bill or other loading document must state, "No EEI required, no individual B number valued over $2500."
         2. If EEI is required, the Schedule B number must be included as well as the AES tracking number
      vii. Determine a carrier or freight forwarder
      viii. Prepare package and arrange for pickup

Appendix 1

EAR / ITAR Decision Tree

Does your item or data have predominately military or spacecraft applications?

- No → **Subject to EAR?** (See Appendix 4)
- Yes → **ITAR Controlled** (License probably required to export)

Subject to EAR? (See Appendix 4)
- Yes → **Is your item classified under an ECCN on the CCL?**
- No → **Is export subject to end-user restrictions?**

Is your item classified under an ECCN on the CCL?
- No → **EAR99**
- Yes → **ECCN**

Is export subject to end-user restrictions?
- Yes → **Contact Export Control Specialist**
- No → **Exit the EAR**

EAR99 → **Do general prohibitions 4-10 apply?**
- No → **Ship NLR**
- Yes → **Submit license application**

ECCN → **Do general prohibitions 4-10 apply?**
- Yes → **Submit license application**
- No → **Using CCL and country chart, is there an "X" in the box?**

Using CCL and country chart, is there an "X" in the box?
- Yes → **Is a license exemption available?**
- No → **Ship NLR**

Is a license exemption available?
- Yes → **Ship under license exception**
- No → **Submit license application**

Appendix 2. **Subject to the EAR? (15CFR parts 730 -774)**

N O T	Am I involved in an activity described in 734.5, e.g., related to the proliferation of chemical or biological weapons, nuclear explosive devices, missile technology, technical assistance with respect to encryption; or activities prohibited by any order issued under the EAR? See Section 734.5(a) and (b) and 740.17(b)	**S U B**

Yes →

No ↓

Yes ← Is the item I am planning to export subject to the exclusive jurisdiction of another U.S. Government Federal Department or Agency? See section 734.3(b)(1)

No ↓

Yes ← Is the technology or software I am planning to export or reexport publicly available (excluding encryption items)? See section 734.3(b)(3)

No ↓

Is my item in the United States? See section 734.3(a)(1)   Yes →

No ↓

Is my item outside of the United States, but of U. S. origin? See section 734.3(a)(2)   Yes →

No ↓

Does my foreign made item incorporate controlled U.S. origin items that exceed the *de minimis* limits defined in section 734.4 or Supp. No. 2 to part 734 of the EAR, or is it ineligible for *de minimis*? See section 734.3(a)(3)   Yes →

No ↓

No ← Is the foreign made item a direct product of U.S. origin technology or software, as described in section 736.2(b)(3) of the EAR, and the destination is Cuba, Libya, or a destination in Country Group D:1? See section 734.3(a)(4) and (5) and Supplement #1 to part 740   Yes →

Left column (top to bottom): **N O T S U B J E C T T O T H E E A R**

Right column (top to bottom): **S U B J E C T T O T H E E A R**

Appendix 3

Export Administration Regulations
Commerce Control List
15 CFR 774

The Commerce Control List includes "dual-use" articles, those that have both military and civilian applications. The List is divided into 10 Categories, numbered as follows:

Category 0 -   Nuclear Materials, Facilities and Equipment and Miscellaneous
Category 1 -   Materials, chemicals, "Microorganisms," and Toxins
Category 2 -   Materials Processing
Category 3 -   Electronics
Category 4 -   Computers
Category 5 -   Telecommunications and Information Security
Category 6 -   Lasers and Sensors
Category 7 -   Navigation and Avionics
Category 8 -   Marine
Category 9 -   Propulsion Systems, Space Vehicles and Related Equipment

Within each of the above categories, items are arranged by group, with each category containing the same five groups, as follows:

Group A -   Equipment, Assemblies and Components
Group B -   Test, Inspection and Production Equipment
Group C -   Materials
Group D -   Software
Group E -   Technology

Within each of the above groups items are listed from **001 to 999**. The category, group and item number make up the 5 digit ECCN; such as 1C351 for "Human and zoonotic pathogens and toxins".

Determining precisely which articles and technical information are included in the above categories and groups, and to which foreign countries and foreign persons they are controlled, requires further scrutiny of the EAR. The methodology for doing this is set forth at 15 CFR part 732. The Commerce Control List itself, which is highly detailed, is contained at 15 CFR part 774. A complete database of the EAR can be found at www.access.gpo.gov/bis/ear/ear_data.html.

Export Administration Regulations Part 736

Ten General Prohibitions

1. Export and reexport of controlled items to listed countries.

2. Reexport and export of foreign-made items incorporating more than a *de minimis* amount of controlled U.S. content

3. Reexport and export of foreign produced direct product of U.S. technology and software

4. Export and reexport to denied parties (see denied persons list)

5. Export and reexport to prohibited end-uses and end-users

6. Export or reexport to general embargoed destinations or comprehensive sanctions (part 746)

   a. Cuba, Iran, Sudan are all generally embargoed

   b. Syria, Iraq, North Korea, and Rwanda are sanctioned on selected categories of items

7. Support of proliferations activities

8. In transit shipments and items to be unladed from vessels or aircraft or through the following countries:

   a. Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam

9. Violation of any order, terms, and conditions of a license or license exemption.

10. Proceeding with transactions with knowledge that a violation has occurred or is about to occur.

Appendix 5

License Exemptions – Export Administration Regulations Part 740

LVS	Shipments of Limited Value	740.3
GBS	Shipments to Country Group B	740.4
CIV	Civil End-Users	740.5
TSR	Technology and Software Under Restricted	740.6
APP	Computers	740.7
TMP	Temporary Imports, Exports and Reexports	740.9
RPL	Service and Replacement of Parts and Equipment	740.10
GOV	Governments, International Organizations, and International Inspections under the Chemical Weapons Convention	740.11
GFT	Gift Parcels and Humanitarian Donations	740.12
TSU	Technology and Software Unrestricted	740.13
BAG	Baggage	740.14
AVS	Aircraft and Vessels	740.15
APR	Additional Permissive Reexports	740.16
ENC	Encryption Commodities and Software	740.17
AGR	Agricultural Commodities	740.18
CCD	Consumer Communications Devices	740.19