

BPE Global Hot Topic – July 2015 Cuba Sanctions



On December 17, 2014 President Obama announced a set of diplomatic and economic changes to chart a new course in U.S. relations with Cuba. Many of us in trade compliance got a little excited as we tried to imagine our lives without starting our list of terrorist/embargoed/sanctioned ([Country Group E countries](#)) under the Export Administration Regulations, in alphabetical order with Cuba having come first for as long as we've been practicing trade compliance. We have memorized the list of embargo/sanctioned countries and have tried to etch this list into the memories of all salespeople, and those facilitating exports, through repeated training. We managed to do this in 2006 when Libya came off the list, now it's time to prepare for Cuba moving off the list.

As a result of President Obama's announcement, our phones started ringing in late December as salespeople everywhere, immediately saw a potential untapped source of revenue, and thought they might be able to pull in some new deals in time for the end of the year. Well, that was 2014, and here we are seven months later trying to keep up with what is in the news, versus our trade compliance reality. Since then, there have been two significant actions:

May 29, 2015 - The U.S. Secretary of State rescinded the designation of Cuba as a State Sponsor of Terrorism so the U.S. could establish diplomatic relations with Cuba and relax certain aspects of the U.S. embargo of Cuba.

July 22, 2015 - The Department of Commerce, U.S. Bureau of Industry and Security ("BIS") issued a final rule amending the Export Administration Regulations ("EAR") to implement the rescission of Cuba's designation as a State Sponsor of Terrorism.

With Cuba's designation as a State Sponsor of Terrorism rescinded, the Anti-Terrorism (AT) license requirements from Cuba were removed and references to Cuba as a State Sponsor of Terrorism were eliminated. All preexisting license requirements for all items as specified in the EAR remain unless authorized by a license exception listed in [Part § 746.2\(a\)](#).

As of this writing, Cuba is still subject to a comprehensive embargo and the list of license exceptions allowed for Cuba is shorter than the list of license exceptions we are used to referring to under [Part § 740](#). Make sure to read each License Exception carefully in [Part § 746.2\(a\)](#), and then to determine the scope and eligibility requirements, you will need to return to the sections or specific paragraphs of part 740 of the EAR as the provisions available for embargoed countries are generally narrow.



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Also, it is important to familiarize yourself with the [de minimis levels for items destined to Cuba](#), and the license exceptions under Part § 740.19 Consumer Communications Devices – License exception “CCD” and Part§ 740.21 Support for the Cuban People – License exception “SCP”.

Lastly, keep in mind that the requirements of § 746.2(a) apply to all items subject to the EAR, including EAR99 items and items that are controlled on the Commerce Control List (CCL) only for AT reasons. In addition to reviewing all related regulations with scrutiny we also encourage you to visit the [BIS FAQ's](#) regarding Cuba.

Although doing business in Cuba remains difficult right now, stay tuned for upcoming changes that will allow all of us to expand our opportunities in Cuba. If you have questions specific to your product line and potential sales to Cuba be sure to engage legal counsel or expert consultants.