



Handwritten note: 合作办学: 硕士

**DUAL DEGREE AGREEMENT**

**BETWEEN**

**THE SCHOOL OF CIVIL ENGINEERING**

**AT**

**BEIJING JIAOTONG UNIVERSITY**

**AND**

**THE COLLEGE OF ENGINEERING AND COMPUTING**

**AT**

**FLORIDA INTERNATIONAL UNIVERSITY**

This **Dual Degree Agreement** is entered into this 17<sup>th</sup> day of May 2011, by and between **Beijing Jiaotong University** ("BJTU"), whose business address is No.3 of Shangyuan Cun, HaiDian District, Beijing, P.R. China and **The Florida International University Board of Trustees**, by and on behalf of the **College of Engineering and Computing** ("CEC") at **Florida International University** ("FIU"), whose business address is Modesto A. Maidique Campus, 11200 S.W. 8<sup>th</sup> Street, Miami, Florida 33199, USA.

NOW THEREFORE, in consideration of the mutual covenants provided herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by FIU and BJTU (hereafter known as the "**Parties**"), the Parties hereby agree as follows:

This document describes the terms under which BJTU and FIU can offer BJTU Engineering students an opportunity to conduct part of their graduate studies at FIU. The basic premise of this Agreement is that eligible students will be able to participate in the following program:

Commence his/her studies at BJTU in the **Master of Science** ("**MS**") degree program in Civil Engineering or Environmental Engineering. After completion of three (3) core and required courses at BJTU (i.e., nine [9] credits), transfer to the **Master of Science** ("**MS**") degree program in Civil Engineering ("**MSCE**") or Environmental Engineering ("**MSEnvE**") at CEC at FIU and complete twenty-one (21) credits to obtain the MS degree. The student may transfer up to Twelve (12) credits obtained from FIU to BJTU to earn his/her MSCE/MSEnvE in BJTU (Appendix B).

**Special Note:** Credit hours at BJTU are equivalent to credit hours at FIU.

Upon the successful conclusion of his/her studies, the student would receive two (2) degrees: an MS from BJTU and an MS from CEC at FIU. In addition, BJTU students obtaining the MS degree would have the option to apply for a twelve-month **Optional Practical Training** ("OPT") at a US-based corporation, as long as he/she meets the *minimum* eligibility requirements described in **Appendix A**.

The program is described in greater detail in the following sections.

**I. MS/MS Dual Degree for Students from BJTU:**

The MSCE and MSEnVE are fully accredited programs that consist of 30-credit hours of coursework (10 courses of three [3] credit hours each). Students in this dual degree program will receive credit for nine (9) credits of the program based on their prior work at the BJTU.

The CEC will accept nominations of BJTU students for participation in the dual degree program, following the successful completion of core courses in their MS program at BJTU. In addition, CEC welcomes applicants who have completed the MS in the previous two years (currently 2009-11). These recent graduates are eligible to take advantage of the opportunity to participate in this dual degree program.

The current **admissions requirements** are the following (*these are subject to modification*):

- Completion of an online Graduate Application for Admissions that can be obtained at [gradschool.fiu.edu](http://gradschool.fiu.edu) by clicking on "Graduate Admissions."
- Successful completion of nine (9) graduate credits at BJTU with a minimum grade of 'B' in each course.

These nine (9) credits can be selected from the list of courses in **Appendix B**.

Scale 1	Scale 2	Grade Description	U.S. Grade Equivalent
85-100	5	Excellent	A
75-84	4	Good	B
60-74	3	Average/Fair	C
0-59	2	Fail	F

- Holding a bachelor's degree or equivalent from an accredited university with an undergraduate **grade point average** ("GPA") equivalent to 3.0 out of 4.0 in upper division courses.
- Submission of official transcripts of all previously attended universities (undergraduate and graduate) in a sealed university envelope.
- Submission of official proof of any degrees obtained; a notarized copy of the original diploma is required.
- Submission of a letter of recommendation from the Dean of the College of Automation Engineering at BJTU.
- Submission of a *curriculum vitae* indicating past professional experience
- Applicants whose native language is not English must demonstrate proficiency in the English language by presenting a minimum score of 80 on the **Internet Based Test** ("iBT"), **Test of English as a Foreign Language** ("TOEFL"), or the equivalent minimum score of 550 on the paper-based version of the TOEFL. The **International English Language Testing System** ("IELTS") exam is accepted; students would need a minimum score of 6.5.

- Fulfillment of any other standard FIU Graduate Admissions' requirement.

All international documents in foreign languages *must* be translated into English by an official translation agency.

### **Degree Requirements**

Participants in this MS/MS program at BJTU and FIU must successfully complete nine (9) credits of core graduate courses required by the MS in Civil Engineering or Environmental Engineering degree programs of BJTU with a minimum grade of 'B' as described above.

He/she will then apply for the graduate admissions into the MSCE or MSEnvE program at CEC. After being admitted into CEC, he/she must complete 21-credit hours of additional graduate coursework to earn the MS degree.

Students pursuing the dual degree program at FIU are required to take all core courses required by the CEC MS degree program. The **graduate program director** ("GPD") must approve his/her choice of courses in writing. The current list of required core courses for the MSCE and MSEnvE at CEC is included in **Appendix B** enclosed hereto. *This list may be unilaterally modified by FIU.*

Entry into the dual degree program at FIU can take place at the start of any one of three annual university terms: the fall term beginning late August; the spring term in early January; or, summer term in early May.

In order to maintain legal F-1 visa status, BJTU students participating in this MS/MS program at FIU shall register for a minimum of nine (9) credit hours during the fall and spring semesters. BJTU students do not need to register in the summer semester to maintain legal status, unless they commence their studies at CEC in the summer semester; in that case a minimum of six (6) credits are required to maintain legal F-1 status. The F-1 eligibility criteria are subject to change pursuant to the US immigration laws.

In order to be awarded the MSCE or MSEnvE degree from CEC, participating students shall complete the required semester hours of graduate-level credit required by the program as listed in **Appendix B**. Students must maintain an overall GPA of 3.0. No grade below a 'C' will be accepted in a graduate program.

### **Fees and Related Expenses**

A student participating in the MSCE or MSEnvE degree program pursuant to this Agreement will be charged USD 550 per credit hour for the courses in the program provided that at the time the student is taking the course(s) there are a minimum of ten (10) to a maximum of thirty-five (35) qualified BJTU students admitted and enrolled in a cohort in this degree program. If the student is taking a course and there are fewer than ten (10) students admitted and enrolled in a cohort in this degree program, the student will be charged tuition at the same rate that is charged to non-Florida residents for the course (currently USD 875.74 per credit hour). The parties will renegotiate the per credit hour charges when the Agreement is reviewed at the one and one-half (1 1/2) year evaluation time described below.

BJTU students participating in this program described in this Agreement will be responsible for paying all tuition and costs. Students enrolling at FIU pursuant to this Agreement will also be responsible for all expenses related to his/her course of study at FIU, including housing,

transportation, health insurance and the like. Students must meet the financial criteria established by the University, the Florida Board of Governors, and Homeland Security for international students. Students must also acquire the appropriate visa in order to be enrolled.

## II. Other Program Characteristics and Conditions:

### Internships and Career Services

All participants in the dual degree program will have access and full rights to the services provided by the CEC, including the services provided by the Office of Career Management Services. Foreign students attending the FIU program who meet certain eligibility requirements may apply for the OPT program described in **Appendix A** enclosed hereto.

### Use of Logos and Brands

Except as otherwise authorized in writing by CEC at FIU, BJTU shall do business in its own name and shall not trade upon the name or credit of CEC or FIU. All brochures, advertisements, website materials, or other solicitations for the program that include reference to FIU or its CEC, regardless of medium and language, shall be subject to FIU's prior written approval. All information posted on websites and promotional materials must be updated regularly and accurately to reflect the nature and requirements of the dual degree program. The Parties agree that upon FIU's request, any information presented by the other Party in its publications and advertisements, including website information that is inaccurate or not supported by facts, regardless of the language used, shall be immediately retracted and/or withdrawn. This Agreement confers no rights upon BJTU to use the logos, marks and likeness of FIU in any advertising except as authorized by FIU in writing.

Except as otherwise authorized in writing by BJTU, CEC at FIU shall do business in its own name and shall not trade upon the name or credit of BJTU. All brochures, advertisements, website materials, or other solicitations for the program that include reference to the BJTU shall be subject to BJTU's prior written approval. This Agreement confers no rights upon CEC to use the logos, marks and likeness of BJTU in any advertising other than for the dual degree program and in a manner consistent with the provisions of this paragraph.

Neither FIU nor BJTU may use the **Southern Association of Colleges and Schools Commission on Colleges ("SACSCOC")** logo in connection with this Agreement or otherwise. The use of this logo is reserved exclusively for SACSCOC.

BJTU must include in all literature/publications, website and other collateral marketing materials that inform the public about the dual degree the disclaimer provided below. BJTU's marketing statements are subject to FIU's prior approval to ensure conformance with the disclaimer. This provision applies irrespective of the language employed.

### Additional Provisions

BJTU *represents and warrants* that it has reviewed the qualifications of all faculty teaching credits that will be used in the FIU degree and certifies that the BJTU faculty are qualified under the guidelines of FIU as contained in **Appendix C**. FIU is accredited by SACSCOC and its guidelines represent commonly accepted good practice for the academic qualifications of faculty. **Appendix C** identifies the faculty competencies required by FIU.

In an effort to develop standard criteria for students transferring into the dual degree program, each institution agrees to share course curriculum and faculty credentials with the other. The Parties must agree to notify the other institution should there be a change in curriculum that affects the ability of either institution to deliver this program.

**Disclaimer Statement:** FIU is accredited by SACSCOC to award undergraduate and graduate degrees. BJTU is not accredited by SACSCOC and the accreditation of FIU does not extend to, or include, BJTU or its students. Although FIU accepts certain coursework in transfer toward a credential from BJTU, or collaborates in other ways for generation of course credits or program credentials, other colleges and universities may or may not accept this work in transfer, even if it appears on a transcript from FIU. This decision is made by the institution subsequently considering the possibility of accepting such credits.

This Agreement shall be interpreted according to the laws of the State of Florida, including the provisions of Florida law regarding conflicts of law, regardless of where the obligations undertaken herein are to be performed. Students participating in the program under this Agreement must satisfy the laws of The People's Republic of China in order to receive MS degree from BJTU.

The term of this Agreement shall be for three (3) years commencing on the latest date of execution by the Parties. The Agreement will be reviewed in one-and-a-half (1½) years to assess results and enact improvements, as necessary. The Agreement may be renewed for additional periods of time and could be extended to other MS degree programs of CEC upon the mutual written consent of the Parties and subject to such terms and conditions as the Parties shall determine in writing. Such extension would require the amendment of the Agreement to incorporate the program's admissions and graduation requirements. The amendment would require the approval of authorities of the respective institutions.

If, as a result of an act of *force majeure*, including without limitation, travel warning issued by the US State Department, an act of God, war, internal unrest and upheaval, hurricane or natural disaster, hurricane warning or hurricane watch issued by the US National Weather Service, tropical storm watch or tropical storm warning issued by the US National Weather Service, riot, labor dispute, strike, threat thereof, intervention of a government agency or instrumentality or other occurrence beyond the reasonable control of either Party, either Party is hindered in performing its obligations under this Agreement, then, in such event, that Party shall have the right, upon notifying the other Party of the occurrence of *force majeure*, to suspend performance under the Agreement until the event of *force majeure* has passed. In the event that either Party is unable to perform for a period of excess of six (6) months, the other Party may, at its option, terminate this Agreement.

In the case that conditions improve and warrant the resumption of activities and deployment of educational programs and services, FIU would have at least one (1) month to coordinate the resumption of activities per this Agreement.

BJTU will be responsible for obtaining all necessary PRC governmental approvals required to implement this Agreement.

Any notice required or permitted under the provisions of this Agreement shall be effective when personally delivered or sent by first class mail, return receipt requested as follows:

**If to BJTU:** Dr. Feng Chen, Vice President  
Beijing Jiaotong University  
No.3 of Shangyuan Residence  
HaiDian District, BeiJing, P.R. China

**If to FIU:** Dr. Caesar Abi Shdid, Director of External Programs  
College of Engineering and Computing  
Florida International University  
10555 W. Flagler Street, EC 2429  
Miami, FL 33174 USA

The performance of this Agreement must comply with and is subject to the Constitution and laws of the United States of America and of the State of Florida and the Regulations of the Florida Board of Governors and The Florida International University Board of Trustees. The Florida Sunshine and Public Records Law applies to all aspects of this Agreement.

All the provisions of this Agreement and any agreement to be derived therefrom must adhere to the requirements of Part 736 of the Export Control Administration regulations (15 CFR Part 736) attached to this Agreement as **Appendix D**, and as they may amended in the future.

This Agreement may be terminated without cause by either Party upon six (6) months' advance written notice. Notwithstanding this provision, any students participating in existing programs would be allowed to complete their degree program.

In the event of a breach of this Agreement, the non-breaching Party shall provide thirty (30) days advance written notice of its intent to terminate this agreement. The breaching Party shall be given the opportunity to cure the breach within that time. If the breach is not cured or reasonable assurance of the ability to cure is not given or is not accepted, then the termination shall be effective at the end of the thirty (30) day period.

The Parties agree to provide equal enrollment opportunities to all persons regardless of race, color, religion, gender, age, national origin, disability or marital status during the term of the Agreement.

This Agreement is designed solely to facilitate the development of mutually beneficial and collaborative initiatives. Each Party shall bear any cost it may incur in the implementation of this Agreement.

This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and supersedes all prior or contemporaneous discussions, agreements, and understandings, whether verbal or written.

This Agreement will be amended, as necessary, to comply with regulations or policies of FIU, the Florida Board of Governors and/or SACSCOC, as they might be revised from time to time.

The individuals signing this Agreement represent that they have the requisite authority to bind their respective bodies to this Agreement.

This Agreement is signed on May 17, 2011. This collaborative arrangement shall not be implemented prior to FIU's notification to SACSCOC of the existence of this Agreement.

**For Beijing Jiaotong University:**

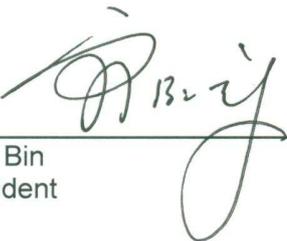


Feng Chen, Ph.D.  
Vice President



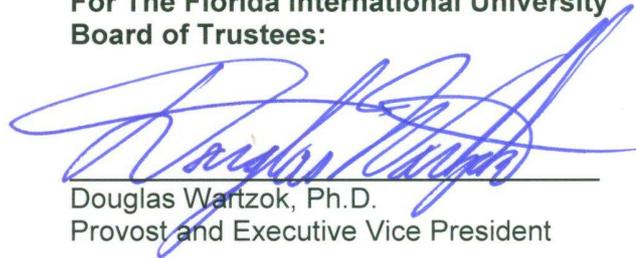
Qingchao Wei, Ph.D.  
Dean  
School of Civil Engineering

Approved:



Ning Bin  
President

**For The Florida International University  
Board of Trustees:**



Douglas Wartzok, Ph.D.  
Provost and Executive Vice President



Amir Mirmiran, Ph.D., P.E.  
Dean  
College of Engineering and Computing

Approved as to the Form and Legal  
Sufficiency:



Liz Marston  
Associate General Counsel

## APPENDIX A

### MASTER OF SCIENCE IN ELECTRICAL ENGINEERING (MSCE) OR COMPUTER ENGINEERING (MSEnvE)

#### OPTIONAL PRACTICAL TRAINING (OPT)

##### Eligibility for Employment:

A fundamental eligibility requirement for all types of employment (on or off campus) is for a student to **continuously maintain lawful F-1 status**. Maintaining lawful F-1 status includes, at a minimum, the following:

1. Student must have a valid passport at all times;
2. Student must hold a valid FIU I-20 properly processed either through FIU's International Student and Scholar Services (ISSS) or by travel and re-entry;
3. Student must be registered full-time each academic semester. Under immigration regulations, "full-time enrollment" is defined as enrollment for **at least 9 graduate-level credits for graduate students**.
4. Student must also be in good academic standing and "make normal progress towards completion of degree," which means maintaining the minimum GPA of at least 3.0 for graduate students.

**Practical training** is employment that is directly related to a student's major or field of study. Students must have been on valid F-1 status for at least two consecutive semesters prior to application for practical training, although application is allowed 90 days prior to the conclusion of their studies.

OPT is limited to an aggregate total of 12 months. Authorization is granted by a Service Center of the U.S. Immigration and Citizenship Service (USCIS). An FIU ISSS advisor will recommend OPT for an FIU international student in F-1 status who has met **all eligibility requirements**. An application fee is charged by USCIS.

A student may choose to apply for OPT either before graduation (pre-completion of degree) or after graduation (post-completion of degree). Any period used before graduation is deducted from the 12 months available. **Students are required to attend a *Practical Training/Employment Workshop* in order to be eligible to apply for OPT.** More detailed information (application procedure, documents needed, etc.) is provided at the workshop. **Students must CHECK WITH ISSS FOR WORKSHOP SCHEDULE and APPLICATION DEADLINES.** These workshops are also offered online.

Students must have attended an ISSS Employment/Practical Training Workshop before they can apply for OPT through ISSS on an appointment basis. They must bring all applications forms and other required documents at the time of appointment with an ISSS advisor.

**IMPORTANT:** Students must obtain proper authorization before engaging in any off-campus employment (whether it is paid or non-paid). If a student falls out-of status at any time during his/her employment (i.e., drops a class and falls below the full-time requirement or his/her passport expires), then the student must stop working immediately. The requirements for maintaining the F-1 visa status and being eligible for the OPT are subject to change based on US immigration law.

## APPENDIX B

### MASTER OF SCIENCE IN ELECTRICAL ENGINEERING (MSCE) OR COMPUTER ENGINEERING (MSEnvE)

#### COURSES\*

##### I. FOR CIVIL ENGINEERING:

a) Up to nine (9) credits from the following courses may be transferred to FIU from BJTU:

No.	Course No.	Course
1	S03015	Numerical Analysis
2	S03013	Matrix Theory
3	S03036	Plastic Mechanics
4	S05023	Advanced Soil Mechanics
5	S03023	Experimental Stress Analysis

b) Students in the MSCE program have to satisfy the core course requirements listed below according to their area of specialization. Beyond the core courses in each specialization, students in the MSCE program shall select elective courses from the MSCE catalog in order to complete the 21 credits required by this program. Up to 12 credits of the 21 credits may be transferred to BJTU from FIU.

##### **Structural Engineering**

Students are required to take at least nine (9) credit hours of core course work as follows:

1. One course (3 credits) in analysis of structures. Choose one from:
  - o CES 5106 Advanced Structural Analysis; or
  - o EGM 5421 Structural Dynamics.
2. One course (3 credits) in design of structures. Choose one from:
  - o CES 5715 Prestressed Concrete Design; or
  - o CES 6706 Advanced Reinforced Concrete Design.
3. One course (3 credits) in analysis of lateral loads on structures. Choose one from:
  - o CES 5587 Topics in Wind Engineering;
  - o CES 6209 Advanced Structural Dynamics; or
  - o EGN 5439 Design of Tall Buildings.

Furthermore, the student should also take at least six (6) credits hours of elective courses in Structural Engineering. Students are also required to take CES 4605 or equivalent (unless previously taken). It is advisable that students gain some expertise in numerical methods.

##### **Construction Engineering**

Students are required to take at least nine (9) credit hours of core course work as follows:

1. CCE 5035 Construction Engineering Management;
2. CCE 5036 Advanced Project Planning for Civil Engineers; and
3. CCE 5405 Advanced Heavy Construction Techniques.

Furthermore, it is advisable that students gain some expertise in computer methods in construction engineering.

### **Geotechnical Engineering**

Students are required to take at least ten (10) credit hours of core course work as follows:

1. CEG 5065 Geotechnical Dynamics;
2. CEG 6017 Theoretical Geotechnical Mechanics; and
3. CEG 6105 Advanced Foundation Engineering.

### **Transportation Engineering**

Transportation engineering is concerned with the planning, design, operation, and maintenance of the transportation infrastructure and systems. A student who chooses to specialize in transportation engineering must complete a minimum of five courses from the list below:

TTE 5205 Advanced Highway Capacity Analysis  
TTE 5215 Fundamentals of Traffic Engineering  
TTE 5607 Transportation Demand Analysis  
TTE 5805 Advanced Geometric Design of Highways  
TTE 6257 Traffic Control Systems Design  
TTE 6506 Mass Transit Planning  
CGN 5320 GIS Applications in Civil and Environmental Engineering

Furthermore, it is advisable that students gain some expertise in numerical methods.

## **II. FOR ENVIRONMENTAL ENGINEERING:**

- a) Up to nine (9) credits from the following courses may be transferred to FIU from BJTU:

No.	Course #	Course
1	S03015	Numerical Analysis
2	S03013	Matrix Theory
3	S06009	Advanced Fluid Method
4	S06074	Modern Instrumental Analysis Method
5	S06075	Environmental Microbial Technology

- b) Students in the MSEnvE program have to satisfy the core course requirements listed below. Beyond the core courses in each specialization, students in the MSEnvE program shall select elective courses from the table below in order to complete the 21 credits required by this program. Up to 12 credits of the 21 credits may be transferred to BJTU from FIU.

Environmental engineering students are required to take at least one course in each of the following core areas:

Water supply/wastewater/water quality,  
Air quality,  
Soil/solid/hazardous waste, and

Water resources (including groundwater).

Furthermore, it is advisable that students gain some expertise in environmental chemistry and in computational techniques including GIS techniques, while seeking knowledge in new areas of research and development.

Students are also required to register for zero credit of the Graduate Environmental Seminar (ENV 6935) and are encouraged to participate in it each year.

No.	Course #	Course
1	CWR 5235	Open Channel Hydraulics
2	ENV 5126	Particulate Air Pollution Control
3	ENV 5356	Solid And Hazardous Waste
4	ENV 5406	Water Treatment Systems And Design
5	ENV 5512	Water And Wastewater Analysis
6	ENV 5519	Chemistry for environmental engineers
7	ENV 5613	Environmental Entrepreneurship
8	ENV 5666	Water Quality Management
9	ENV 6070	Green Engineering
10	ENV 6558	Industrial Wastewater Treatment

***\*Please note that the program as described above is subject to change at any time.***

## APPENDIX C

### QUALIFIED FACULTY REQUIREMENTS

The institution employs competent faculty members qualified to accomplish the mission and goals of the institution. When determining acceptable qualifications of its faculty, the institution gives primary consideration to the highest earned degree in the discipline.

The institution also considers competence, effectiveness, and capacity, including, as appropriate, undergraduate and graduate degrees, related work experience in the field, professional licensure and certifications, honors and awards, continuous documented excellence in teaching, or other demonstrated competencies and achievements that contribute to effective teaching and student learning outcomes.

Florida International University uses the following as credential guidelines when it defines faculty qualifications using faculty credentials:

- Faculty teaching general education courses at the undergraduate level: doctorate or master's degree in the teaching discipline or master's degree with a concentration in the teaching discipline (a minimum of 18 graduate semester hours in the teaching discipline).
- Faculty teaching baccalaureate courses: doctorate or master's degree in the teaching discipline or master's degree with a concentration in the teaching discipline (a minimum of 18 graduate semester hours in the teaching discipline).
- Faculty teaching graduate and post-baccalaureate course work: earned doctorate/terminal degree in the teaching discipline or a related discipline
- Graduate teaching assistants: master's in the teaching discipline or 18 graduate semester hours in the teaching discipline, direct supervision by a faculty member experienced in the teaching discipline, regular in-service training, and planned and periodic evaluations.

As a Carnegie Research University with High Research Activity (RU/H) Florida International University additionally credentials its faculty based on national/international juried research productivity within the discipline. The institution documents a faculty member's research contributions to the discipline as evidence of the faculty qualifications.

In extremely limited circumstances a faculty member may be credentialed based on a combination of educational experience, productivity in the discipline and work experience. In these situations the practical experience in the discipline must be at an executive level with a broad scope of national/international reach.

## APPENDIX D

### EXPORT CONTROL ADMINISTRATION REGULATION

#### PART 736—GENERAL PROHIBITIONS

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010); Notice of November 4, 2010, 75 FR 68673 (November 8, 2010).

**Source:** 61 FR 12754, Mar. 25, 1996, unless otherwise noted.

#### § 736.1 Introduction.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. A person may undertake transactions subject to the EAR without a license or other authorization, unless the regulations affirmatively state such a requirement. As such, if an export, reexport, or activity is subject to the EAR, the general prohibitions contained in this part and the License Exceptions specified in part 740 of the EAR must be reviewed to determine if a license is necessary. In the case of all exports from the United States, you must document your export as described in part 762 of the EAR regarding recordkeeping and clear your export through the U.S. Customs Service as described in part 758 of the EAR regarding export clearance requirements. Also note that for short supply controls all prohibitions and License Exceptions are in part 754 of the EAR.

(a) In this part we tell you:

(1) The facts that make your proposed export, reexport, or conduct subject to these general prohibitions, and

(2) The ten general prohibitions.

(b) Your obligations under the ten general prohibitions and under the EAR depend in large part upon the five types of information described in §736.2(a) of this part and upon the general prohibitions described in §736.2(b) of this part. The ten general prohibitions contain cross-references to other parts of the EAR that further define the breadth of the general prohibitions. For that reason, this part is not freestanding. In part 732, we provide certain steps you may follow in proper order to help you understand the general prohibitions and their relationship to other parts of the EAR.

(c) If you violate any of these ten general prohibitions, or engage in other conduct contrary to the Export Administration Act, the EAR, or any order, license, License Exception, or authorization issued thereunder, as described in part 764 of the EAR regarding enforcement, you will be subject to the sanctions described in that part.

#### § 736.2 General prohibitions and determination of applicability.

(a) *Information or facts that determine the applicability of the general prohibitions.* The following five types of facts determine your obligations under the ten general prohibitions and the EAR generally:

(1) *Classification of the item.* The classification of the item on the Commerce Control List (see part 774 of the EAR);

(2) *Destination.* The country of ultimate destination for an export or reexport (see parts 738 and 774 of the EAR concerning the Country Chart and the Commerce Control List);

(3) *End-user.* The ultimate end user (see General Prohibition Four (paragraph (b)(4) of this section) and Supplement No. 1 to part 764 of the EAR for references to persons with whom your transaction may not be permitted; see General Prohibition Five (Paragraph (b)(5) of this section) and part 744 for references to end-users for whom you may need an export or reexport license).

(4) *End-use.* The ultimate end-use (see General Prohibition Five (paragraph (b)(5) of this section) and part 744 of the EAR for general end-use restrictions); and

(5) *Conduct.* Conduct such as contracting, financing, and freight forwarding in support of a proliferation project as described in part 744 of the EAR.

(b) *General prohibitions.* The following ten general prohibitions describe certain exports, reexports, and other conduct, subject to the scope of the EAR, in which you may not engage unless you either have a license from the Bureau of Industry and Security (BIS) or qualify under part 740 of the EAR for a License Exception from each applicable general prohibition in this paragraph. The License Exceptions at part 740 of the EAR apply only to General Prohibitions One (Exports and Reexports in the Form Received), Two (Parts and Components Reexports), and Three (Foreign-Produced Direct Product Reexports); however, selected License Exceptions are specifically referenced and authorized in part 746 of the EAR concerning embargo destinations and in §744.2(c) of the EAR regarding nuclear end-uses.

(1) *General Prohibition One—Export and reexport of controlled items to listed countries (Exports and Reexports).* You may not, without a license or License Exception, export any item subject to the EAR to another country or reexport any item of U.S.-origin if each of the following is true:

(i) The item is controlled for a reason indicated in the applicable Export Control Classification Number (ECCN), and

(ii) Export to the country of destination requires a license for the control reason as indicated on the Country Chart at part 738 of the EAR. (The scope of this prohibition is determined by the correct classification of your item and the ultimate destination as that combination is reflected on the Country Chart.)<sup>1</sup> Note that each License Exception described at part 740 of the EAR supersedes General Prohibition One if all terms and conditions of a given License Exception are met by the exporter or reexporter.

(2) *General Prohibition Two—Reexport and export from abroad of foreign-made items incorporating more than a de minimis amount of controlled U.S. content (U.S. Content Reexports).* (i) You may not, without a license or license exception, reexport or export from

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<sup>1</sup> See part 738 of the EAR for selected controls that are not specified on the Country Chart.

abroad foreign-made commodities that incorporate controlled U.S.-origin commodities, foreign-made commodities that are "bundled" with controlled U.S.-origin software, foreign-made software that is commingled with controlled U.S.-origin software, or foreign-made technology that is commingled with controlled U.S.-origin technology if such items require a license according to any of the provisions in the EAR and incorporate or are commingled with more than a *de minimis* amount of controlled U.S. content, as defined in §734.4 of the EAR concerning the scope of the EAR.

(A) It incorporates more than the *de minimis* amount of controlled U.S. content, as defined in §734.4 of the EAR concerning the scope of the EAR;

(B) It is controlled for a reason indicated in the applicable ECCN; and

(C) Its export to the country of destination requires a license for that control reason as indicated on the Country Chart. (The scope of this prohibition is determined by the correct classification of your foreign-made item and the ultimate destination, as that combination is reflected on the Country Chart.)

(ii) Each License Exception described in part 740 of the EAR supersedes General Prohibition Two if all terms and conditions of a given License Exception are met by the exporter or reexporter.

(3) *General Prohibition Three—Reexport and export from abroad of the foreign-produced direct product of U.S. technology and software (Foreign-Produced Direct Product Reexports)* —(i)

(i) *Country scope of prohibition.* You may not, without a license or license exception, reexport any item subject to the scope of this General Prohibition Three to a destination in Country Group D:1 or E:1 (See Supplement No. 1 to part 740 of the EAR).

(ii) *Product scope of foreign-made items subject to prohibition.* This General Prohibition 3 applies if an item meets either the Conditions defining the direct product of technology or the Conditions defining the direct product of a plant in paragraph (b)(3)(ii)(A) of this section:

(A) *Conditions defining direct product of technology.* Foreign-made items are subject to this General Prohibition 3 if they meet both of the following conditions:

( 1 ) They are the direct product of technology or software that requires a written assurance as a supporting document for a license, as defined in paragraph (o)(3)(i) of supplement no. 2 to part 748 of the EAR, or as a precondition for the use of License Exception TSR at §740.6 of the EAR, and

( 2 ) They are subject to national security controls as designated on the applicable ECCN of the Commerce Control List at part 774 of the EAR.

(B) *Conditions defining direct product of a plant.* Foreign-made items are also subject to this General Prohibition 3 if they are the direct product of a complete plant or any major component of a plant if both of the following conditions are met:

( 1 ) Such plant or component is the direct product of technology that requires a written assurance as a supporting document for a license or as a precondition for the use of License Exception TSR in §740.6 of the EAR, and

( 2 ) Such foreign-made direct products of the plant or component are subject to national security controls as designated on the applicable ECCN of the Commerce Control List at part 774 of the EAR.

(iii) *License Exceptions*. Each License Exception described at part 740 of the EAR supersedes this General Prohibition Three if all terms and conditions of a given exception are met by the exporter or reexporter.

(4) *General Prohibition Four (Denial Orders)—Engaging in actions prohibited by a denial order.*

(i) You may not take any action that is prohibited by a denial order issued under part 766 of the EAR, Administrative Enforcement Proceedings. These orders prohibit many actions in addition to direct exports by the person denied export privileges, including some transfers within a single country, either in the United States or abroad, by other persons. You are responsible for ensuring that any of your transactions in which a person who is denied export privileges is involved do not violate the terms of the order. Orders denying export privileges are published in the Federal Register when they are issued and are the legally controlling documents in accordance with their terms. BIS also maintains compilations of persons denied export privileges on its Web site at <http://www.bis.doc.gov>. BIS may, on an exceptional basis, authorize activity otherwise prohibited by a denial order. See §764.3(a)(2) of the EAR.

(ii) There are no License Exceptions described in part 740 of the EAR that authorize conduct prohibited by this General Prohibition Four.

(5) *General Prohibition Five—Export or reexport to prohibited end-uses or end-users (End-Use End-User)*. You may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.

(6) *General Prohibition Six—Export or reexport to embargoed destinations (Embargo)*. (i) You may not, without a license or License Exception authorized under part 746, export or reexport any item subject to the EAR to a country that is embargoed by the United States or otherwise made subject to controls as both are described at part 746 of the EAR.

(ii) License Exceptions to General Prohibition Six are described in part 746 of the EAR, on Embargoes and Other Special Controls. Unless a License Exception or other authorization is authorized in part 746 of the EAR, the License Exceptions described in part 740 of the EAR are not available to overcome this general prohibition.

(7) *General Prohibition Seven—Support of proliferation activities (U.S. person proliferation activity)* —(i) *Support of proliferation activities (U.S. person proliferation activity)*.

(A) If you are a U.S. person as that term is defined in §744.6(c) of the EAR, you may not engage in any activities prohibited by §744.6(a) or (b) of the EAR, which prohibits the performance, without a license from BIS, of certain financing, contracting, service, support, transportation, freight forwarding, or employment that you know will assist in certain proliferation activities described further in part 744 of the EAR. There are no License Exceptions to this General Prohibition Seven in part 740 of the EAR unless specifically authorized in that part.

(B) If you are a U.S. person as that term is defined in §744.6(c) of the EAR, you may not export a Schedule 1 chemical listed in supplement no. 1 to Part 745 without first complying with the provisions of §§742.18 and 745.1 of the EAR.

(C) If you are a U.S. person as that term is defined in §744.6(c) of the EAR, you may not export a Schedule 3 chemical listed in supplement no. 1 to part 745 to a destination not listed in supplement no. 2 to Part 745 without complying with the End-Use Certificate requirements in §745.2 of the EAR that apply to Schedule 3 chemicals controlled for CW reasons in ECCN 1C350, ECCN 1C355, or ECCN 1C395.

(8) *General Prohibition Eight—In transit shipments and items to be unladen from vessels or aircraft (Intransit) —*

(i) *Unlading and shipping in transit.* You may not export or reexport an item through or transit through a country listed in paragraph (b)(8)(ii) of this section unless a License Exception or license authorizes such an export or reexport directly to such a country of transit, or unless such an export or reexport is eligible to such a country of transit without a license.

(ii) *Country scope.* This General Prohibition Eight applies to Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

(9) *General Prohibition Nine—Violation of any order, terms, and conditions (Orders, Terms, and Conditions).* You may not violate terms or conditions of a license or of a License Exception issued under or made a part of the EAR, and you may not violate any order issued under or made a part of the EAR. There are no License Exceptions to this General Prohibition Nine in part 740 of the EAR. Supplements Nos. 1 and 2 to this part provide for certain General Orders and Administrative Orders.

(10) *General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur).* You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR.

[61 FR 12754, Mar. 25, 1996]

**Editorial Note:** For Federal Register citations affecting §736.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

#### **Supplement No. 1 to Part 736—General Orders**

General Order No. 1 of September 16, 1998; Establishing a 24-month validity period on reexport authorizations issued without a validity period and revoking those exceeding that period.

(a) *Reexport authorizations issued within 24-months of the General Order.* All reexport authorizations issued with no validity period within the 24-months preceding September 16, 1998 shall be deemed to have an expiration date which shall be the date 24-months from the date of issuance of the reexport authorization or November 16, 1998, whichever is longer.

(b) *Reexport authorizations issued before the 24-month period preceding the General Order.* For reexport authorizations issued with no validity period before the 24-month period preceding September 16, 1998:

(1) Effective September 16, 1998, all such outstanding reexport authorizations for terrorist-supporting countries (see parts 742 and 746 of the EAR) are revoked.

(2) Effective November 16, 1998, all other such outstanding reexport authorizations are revoked.

(c) *Extensions.* If necessary, you may request extensions of such authorizations according to procedures set forth in §750.7(g) of the EAR.

(d) *Specific Notice from BIS.* If you have received, or should you receive, specific notice from BIS with regard to a reexport authorization covered by this General Order, informing you of a revocation, suspension, or revision (including validity period) of any such reexport authorization, then the terms of that specific notice will be controlling.

(e) *Definition of "authorization".* The term "authorization" as used in this General Order encompasses the range of reexport authorizations granted by BIS, which includes licenses, individual letters, and other types of notifications.

General Order No. 2 of May 14, 2004; sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Act of 2003 (Public Law 108-175, codified as a note to 22 U.S.C. 2151) (the SAA), require (1) a prohibition on the export to Syria of all items on the Commerce Control List (in 15 CFR part 774)(CCL) and (2) a prohibition on the export to Syria of products of the United States, other than food and medicine. The President has also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. This Order is issued consistent with Executive Order 13338 of May 11, 2004, which implements the SAA.

(a) *License requirements.* Effective May 14, 2004, a license is required for export or reexport to Syria of all items subject to the EAR, except food and medicine classified as EAR99 (medicine is defined in part 772 of the EAR). A license is required for the "deemed export" and "deemed reexport," as described in §734.2(b) of the EAR, of any technology or source code on the Commerce Control List (CCL) to a Syrian foreign national. "Deemed exports" and "deemed reexports" involving technology or source code subject to the EAR but not listed on the CCL do not require a license to Syrian foreign nationals.

(b) *Revocation of Authority to Export under Existing Licenses.* Effective May 14, 2004, the authority to export or reexport to Syria under existing licenses is hereby revoked (see savings clause in paragraph (e) of this General Order). License conditions requiring written U.S. Government authorization for the reexport, transfer (in-country), or resale of items already exported or reexported remain in effect, and requests for BIS authorization to reexport, transfer (in-country), or sell such items will require interagency approval.

(c) *License Exceptions.* Effective May 14, 2004, no License Exceptions to the license requirements set forth in paragraph (a) of this General Order are available for exports or reexports to Syria, except the following:

(1) TMP for items for use by the news media as set forth in §740.9(a)(2)(viii) of the EAR,

(2) GOV for items for personal or official use by personnel and agencies of the U.S. Government as set forth in §740.11(b)(2)(i) and (ii) of the EAR,

(3) TSU for operation technology and software, sales technology and software updates pursuant to the terms of §740.13(a), (b), or (c) of the EAR,

(4) BAG for exports of items by individuals leaving the United States as personal baggage pursuant to the terms of §740.14 (a) through (d) only of the EAR, and

(5) AVS for the temporary sojourn of civil aircraft reexported to Syria pursuant to the terms of §740.15(a)(4) of the EAR.

(d) *Licensing policy.* All license applications for export or reexport to Syria are subject to a general policy of denial. License applications for "deemed exports" and "deemed reexports" of technology and source code will be reviewed on a case-by-case basis. BIS may consider, on a case-by-case basis, license applications for exports and reexports of items necessary to carry out the President's constitutional authority to conduct U.S. foreign affairs and as Commander-in-Chief, including those exports and reexports of items necessary for the performance of official functions by the United States Government personnel abroad. BIS may also consider the following license applications on a case-by-case basis: items in support of activities, diplomatic or otherwise, of the United States Government (to the extent that regulation of such exportation or reexportation would not fall within the President's constitutional authority to conduct the nation's foreign affairs); medicine (on the CCL) and medical devices (both as defined in part 772 of the EAR); parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft; aircraft chartered by the Syrian Government for the transport of Syrian Government officials on official Syrian Government business; telecommunications equipment and associated computers, software and technology; and items in support of United Nations operations in Syria. The total dollar value of each approved license for aircraft parts for flight safety normally will be limited to no more than \$2 million over the 24-month standard license term, except in the case of complete overhauls. In addition, consistent with part 734 of the EAR, the following are not subject to this General Order: informational materials in the form of books and other media; publicly available software and technology; and technology exported in the form of a patent application or an amendment, modification, or supplement thereto or a division thereof (see 15 CFR 734.3(b)(1)(v), (b)(2) and (b)(3)).

(e) *Savings Clause.* Items that are on dock for loading, on lighter, laden aboard an exporting carrier or en route aboard a carrier to a port of export on May 14, 2004, shall be subject to the licensing rules applicable to such items as of May 13, 2004. Any such items not actually exported or reexported before midnight May 28, 2004, may be exported or reexported only if authorized pursuant to this General Order.

General Order No. 3 [Reserved]

General Order No. 4 of June 13, 2008, as amended on September 3, 2009, amending existing licenses for exports of consolidated gift parcels to Cuba due to changes in License Exception GFT.

(a) Section 740.12(a) of the EAR authorizes, among other things, certain exports of gift parcels to Cuba pursuant to a license exception. However, consolidated shipments of multiple gift parcels to Cuba require a license even if all of the individual items within the consolidated gift parcel would be eligible for this license exception if shipped alone.

(b) Notwithstanding any statements to the contrary on the license itself, licenses authorizing the export to Cuba of consolidated gift parcels described in paragraph (a) of this order that are valid on September 3, 2009 authorize the export of consolidated shipments to Cuba of gift parcels that comply with the requirements of License Exception GFT found in §740.12(a) of the EAR as of September 3, 2009.

(c) This General Order does not change any of the other terms (including total value of items that may be exported or expiration date) of the licenses it affects.

[63 FR 49426, Sept. 16, 1998, as amended at 65 FR 76562, Dec. 7, 2000; 69 FR 26768, May 14, 2004; 69 FR 42333, July 15, 2004; 69 FR 76843, Dec. 23, 2004; 71 FR 32273, June 5, 2006; 71 FR 52427, Sept. 6, 2006; 71 FR 53965, Sept. 13, 2006; 72 FR 31718, June 8, 2007; 73 FR 33673, June 13, 2008; 73 FR 54503, Sept. 22, 2008; 73 FR 68324, Nov. 18, 2008; 74 FR 45988, Sept. 8, 2009]

## **Supplement No. 2 to Part 736—Administrative Orders**

*Administrative Order One: Disclosure of License Issuance and Other Information.* Consistent with section 12(c) of the Export Administration Act of 1979, as amended, information obtained by the U.S. Department of Commerce for the purpose of consideration of or concerning license applications, as well as related information, will not be publicly disclosed without the approval of the Secretary of Commerce. Shipper's Export Declarations also are exempt from public disclosure, except with the approval of the Secretary of Commerce, in accordance with §301(g) of Title 13, United States Code.

*Administrative Order Two: Conduct of Business and Practice in Connection with Export Control Matters.*

(a) Exclusion of persons guilty of unethical conduct or not possessing required integrity and ethical standards.

(1) *Who may be excluded.* Any person, whether acting on his own behalf or on behalf of another, who shall be found guilty of engaging in any unethical activity or who shall be demonstrated not to possess the required integrity and ethical standards, may be excluded from (denied) export privileges on his own behalf, or may be excluded from practice before BIS on behalf of another, in connection with any export control matter, or both, as provided in part 764 of the EAR.

(2) *Grounds for exclusion.* Among the grounds for exclusion are the following:

(i) Inducing or attempting to induce by gifts, promises, bribes, or otherwise, any officer or employee of BIS or any customs or post office official, to take any action with respect to the issuance of licenses or any other aspects of the administration of the Export Administration Act, whether or not in violation of any regulation;

(ii) Offering or making gifts or promises thereof to any such officer or employee for any other reason;

(iii) Soliciting by advertisement or otherwise the handling of business before BIS on the representation, express or implied, that such person, through personal acquaintance or otherwise, possesses special influence over any officer or employee of BIS;

(iv) Charging, or proposing to charge, for any service performed in connection with the issuance of any license, any fee wholly contingent upon the granting of such license and the amount or value thereof. This provision will not be construed to prohibit the charge of any fee agreed to by the parties; provided that the out-of-pocket expenditures and the reasonable value of the services performed, whether or not the license is issued and regardless of the amount thereof, are fairly compensated; and

(v) Knowingly violating or participating in the violation of, or an attempt to violate, any regulation with respect to the export of commodities or technical data, including the making of or inducing another to make any false representations to facilitate any export in violation of the Export Administration Act or any order or regulation issued thereunder.

(3) *Definition.* As used in this Administration Order, the terms "practice before BIS" and "appear before BIS" include:

(i) The submission on behalf of another of applications for export licenses or other documents required to be filed with BIS, or the execution of the same;

(ii) Conferences or other communications on behalf of another with officers or employees of BIS for the purpose of soliciting or expediting approval by BIS of applications for export licenses or other documents, or with respect to quotas, allocations, requirements or other export control actions, pertaining to matters within the jurisdiction of BIS;

(iii) Participating on behalf of another in any proceeding pending before BIS; and

(iv) Submission to a customs official on behalf of another of a license or Shipper's Export Declaration or other export control document.

(4) *Proceedings.* All proceedings under this Administrative Order shall be conducted in the same manner as provided in part 766 of the EAR.

(b) *Employees and former employees.* Persons who are or at any time have been employed on a full-time or part-time, compensated or uncompensated, basis by the U.S. Government are subject to the provisions of 18 U.S.C. 203, 205, and 207 (Pub. L. 87-849, 87th Congress) in connection with representing a private party or interest before the U.S. Department of Commerce in connection with any export control matter.

[61 FR 12754, Mar. 25, 1996, as amended at 70 FR 54628, Sept. 16, 2005; 70 FR 62238, Oct. 31, 2005]