

# NOW +

# NEXT

EXPORT CONTROLS ALERT | NIXON PEABODY LLP

JULY 23, 2015



## Export Administration Regulations amended: Cuba no longer a State Sponsor of Terrorism

By Alycia Ziarno and Alexandra Lopez-Casero

Yesterday, the final step removing some of the export restrictions resulting from Cuba's 1982 designation as a State Sponsor of Terrorism happened when the Department of Commerce, Bureau of Industry and Security ("BIS"), published its Final Rule amending the Export Administration Regulations (EAR). Specifically, the EAR amendments remove anti-terrorism license requirements from Cuba, and eliminate references to Cuba as a State Sponsor of Terrorism.

Practically speaking, a particularly relevant change flowing from the amendments is that Cuba is removed from the small list of countries designated as Country Group E:1 "terrorist supporting countries," which means that the applicable *de minimis* exception level increases. Generally, the EAR apply to items that are exported and contain more than a *de minimis* amount of controlled U.S.-origin content. Prior to yesterday's amendments, the *de minimis* level for most items exported to Cuba was 10% or less including foreign made items located outside of the United States. Now, the *de minimis* level is higher, and for most (but not all) products exported to Cuba if the item contains 25% or less of U.S.-origin content, then it is not governed by the EAR. Because Cuba is no longer in Group E:1, four other license exceptions also may now apply, at least in part, to exports to Cuba. The rules and exceptions are complicated, so legal counsel familiar with the application of the EAR and their exceptions should be consulted to determine if any of the new exceptions apply to your export.

### A final note of caution

Despite these amendments, U.S. exporters and their foreign subsidiaries must remember that the United States still maintains a comprehensive embargo on trade with Cuba, and all items that are subject to the EAR require a license for export or re-export to Cuba unless authorized by a license exception.

You can read the full text of the July 22, 2015, *Federal Register* notice [here](#).

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

- Alycia Ziarno, 202-585-8265, [aziarno@nixonpeabody.com](mailto:aziarno@nixonpeabody.com)
- Alexandra Lopez-Casero, 202-585-8372, [alopezcasero@nixonpeabody.com](mailto:alopezcasero@nixonpeabody.com)