



Bureau of Industry and Security
U.S. Department of Commerce



TRANSSHIPMENT TRADE CONTROLS AND ENFORCEMENT

Melissa B. Mannino
Chief, Enforcement and Litigation Division
Office of Chief Counsel
for Industry and Security
U.S. Department of Commerce

Why Control Transshipment Trade?

- International Obligations
 - United Nations Security Council Resolution 1540
 - Treaty Law and International Export Control Regimes
- Risk of Diversion Undermines Global and Regional Security
 - Threat of diversion to terrorist or proliferation use
 - Use of front companies
- Damages Confidence in Global Trade Regime
 - Undermines international efforts to liberalize trade
 - Loss of trust by major trade partners



Why Control Transshipment Trade?

Many sensitive items pose direct dangers for the safety of trade infrastructure including ports, vessels, and aircraft, as well as individuals and workers. Some examples of these items include:

- Commercial explosives
- Radiological devices
- Pathogens



Transshipment Trade Defined

- ❑ Broadly defined to include:
 - Items in transit
 - ❑ Not off-loaded, does not enter customs territory
 - Items being Transshipped
 - ❑ Off-loaded, does not enter customs territory
 - Reexports
 - ❑ Off-loaded, enters customs territory



Typical Transshipment Scenarios

- Transit: An item is exported from the United States destined for Country B. The vessel carrying the item stops at port in Country A. The vessel refuels and takes on additional cargo, but the exported item remains. The vessel continues to Country B and delivers the exported item.
 - License requirements to Country B apply

- Transshipment: Same as above, except the item is unloaded in Country A and modified or processed in some manner.
 - If the intended destination at the time of the initial export is country B, the transaction is a transshipment and U.S. license requirements for export to the Country B apply.

- Reexport: Same as above, except the item is unloaded in Country A and put into stock. Later, an order is received from Country B for same item. Item is delivered to Country B.
 - This transaction is an export to Country A, followed by reexport to Country B.



U.S. Legal Authority

- U.S. Law allows controls on the export of any items (goods or technology) subject to U.S. jurisdiction
 - All items physically in the United States are subject to U.S. jurisdiction
 - Items that are exported from the United States remain subject to U.S. jurisdiction even when in another country
 - Items transiting through the United States from one foreign country to another are subject to U.S. jurisdiction
- Commerce has authority to control exports through license requirements based on the intended country of destination at the time of export



U.S. Legal Authority

License Exception (TMP)

- ❑ Under License Exception TMP most items may transit the United States without a license even when the export would otherwise require a U.S. license.

- ❑ The following dual-use items are ineligible for License Exception TMP:
 - Certain items controlled on the Commerce Control List for national security or proliferation (nuclear, chem/bio, missile) reasons destined to countries of concern
 - Any items destined for an embargoed country
 - Commodities shipped to the U.S. under an International Import Certificate
 - Certain chemicals controlled by the Australia Group (ECCN 1C350 (chemicals that may be used as precursors for toxic chemical agents))

- ❑ Catch all controls may also still apply.

