Regulatory Controls

Departments and agencies administering export controls or having substantial input on export control decisions in certain cases:

- Department of Commerce
- Department of State
- Department of Treasury
- Drug Enforcement Administration
- Food and Drug Administration
- Department of Interior
- Department of Energy
- Department of Agriculture
- Nuclear Regulatory Commission
- Federal Maritime Commission
- Patent and Trademark Office
- Tax and Trade Bureau
Reasons We Control Exports

National Security

Foreign Policy
  Crime control
  Anti-terrorism
  Regional Stability
  Firearms Convention

Non Proliferation
  Nuclear weapons
  Chemical/biological weapons
  Missiles
Multilateral Basis

The U.S. prefers to use multilaterally adopted controls, but will use unilateral controls when necessary to further U.S. policies.
Export Control Regimes

Wassenaar Arrangement (Conventional Arms/Dual Use Goods)
Part 743.1 and Part 743 Supplement 1 (Reporting Requirements)
www.wassenaar.org

Missile Technology Control Regime (MTCR)
Part 742.5 and Part 740 Supplement 1 (A:2)
www.mtcr.info

Nuclear Suppliers Group (NSG)
Part 742.3 and Part 740 Supplement 1(A:4)
www.nuclearsuppliersgroup.org

Australia Group (AG) (Chemical/Biological Weapons)
Part 742.2 and Part 740 Supplement 1 (A:3)
www.australiagroup.net
Regulatory Classifications

- **Neodymium**  
  CAS#: 7440-00-8  
  TSCA Listed: All components are listed  
  UN Number: N/A  
  HTS#: 2805.30.0020=5%  
  ECCN: 6A005

- **Lanthanum**  
  CAS#: 7439-91-0  
  TSCA Listed: All components are listed  
  UN Number: UN 3178  
  HTS#: 2805.30.0005=5%  
  ECCN: 6A205

- **Cerium**  
  CAS#: 7440-45-1  
  TSCA Listed: All components are listed  
  UN Number: UN 1333  
  HTS#: 2805.30.0010=5%  
  ECCN: 2A225

- **Terbium**  
  CAS#: 7440-27-9  
  TSCA Listed: All components are listed  
  UN Number: N/A  
  HTS#: 2846.90.8090=3.7%

- **Praseodymium**  
  CAS#: 7440-10-0  
  TSCA Listed: All components are listed  
  UN Number: N/A  
  HTS#: 2805.30.0015=5%

- **Gadolinium**  
  CAS#: 7440-54-2  
  TSCA Listed: All components are listed  
  UN Number: N/A  
  HTS#: 2844.40.0021=Free

- **Yttrium**  
  CAS#: 7440-65-5  
  TSCA Listed: All components are listed  
  UN Number: N/A  
  HTS#: 2805.19.9000=5.5%  
  ECCN: 2A225

- **Europium**  
  CAS#: 7440-53-1  
  TSCA Listed: All components are listed  
  UN Number: UN3178  
  HTS#: 2849.80.8090=3.7%
Classifications affecting LANTHANUM

• CAS#: 7439-91-0-A CAS Registry Number, also referred to as CASRN or CAS Number, is a unique numerical identifier assigned by Chemical Abstracts Service (CAS) to every chemical substance described in the open scientific literature (currently including those described from at least 1957 through the present), including organic and inorganic compounds, minerals, isotopes, alloys and nonstructurable materials (UVCBs, of unknown, variable composition, or biological origin).

• TSCA Listed: All components are listed-Section 8 (b) of the Toxic Substances Control Act (TSCA) requires EPA to compile, keep current and publish a list of each chemical substance that is manufactured or processed, including imports, in the United States for uses under TSCA. Also called the “TSCA Inventory” or simply “the Inventory,” it plays a central role in the regulation of most industrial chemicals in the United States.

• UN Number: UN 3178-UN numbers or UN IDs are four-digit numbers that identify dangerous goods, hazardous substances and articles (such as explosives, flammable liquids, toxic substances, etc.) in the framework of international transport. They are assigned by the United Nations Committee of Experts on the Transport of Dangerous Goods.
Classifications affecting LANTHANUM
Continued

- HTS#: 2805.30.0005=5%-An HS code or HTS code stands for Harmonized System or Harmonized Tariff Schedule. Developed by the World Customs Organization (WCO), the codes are used to classify and define internationally traded goods. The HTS will provide the duty rate, if there is a quota or visa required on the articles being imported and countries which there could be no duty required due to Free Trade Agreements (WTO)

- ECCN: 6A205-An Export Control Classification Number (ECCN) is an alphanumerical code assigned to articles, technology and software (collectively, "items") by the US Department of Commerce, Bureau of Industry and Security. A key in determining whether an export license is needed from the Department of Commerce is finding out if the item you intend to export has a specific Export Control Classification Number (ECCN). ECCNs are five character alpha-numeric designations used on the Commerce Control List (CCL) to identify dual-use items for export control purposes. An ECCN categorizes items based on the nature of the product, i.e. type of commodity, software, or technology and its respective technical parameters. It is important to determine if a license or reporting is required on an ECCN based on review of the country chart as well as potential exceptions which may be available.
Ten Categories in the CCL

Part 738.2

0. Nuclear Materials, Facilities & Equipment and Miscellaneous
1. Materials, Chemicals, “Microorganisms” and Toxins
2. Materials Processing
3. Electronics (Design, Development and Production)
4. Computers
5. Telecommunications-PART 1 and Information Security-PART 2
6. Sensors and Lasers
7. Navigation and Avionics
8. Marine

e.g.: 6A205
Numbering System
Part 738.2

001-099 National Security (including Dual-Use, WAML and NSG Dual Use Annex and Trigger List)
100-199 Missile Technology
200-299 Nuclear Nonproliferation
300-399 Chemical and Biological Weapons
500-599 Space Items

600-699 WAML or formerly USML
900-999 Anti-Terrorism, Crime Control, Regional Security, Short Supply, UN Sanctions, etc.

Refer to Part 738.2(d) for a full explanation of how these digits are determined
FCPA

• The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq. ("FCPA"), was enacted for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business. Specifically, the anti-bribery provisions of the FCPA prohibit the willful use of the mails or any means of instrumentality of interstate commerce corruptly in furtherance of any offer, payment, promise to pay, or authorization of the payment of money or anything of value to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a foreign official to influence the foreign official in his or her official capacity, induce the foreign official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person.
Where to go from here?

- Alternative ways forward for the U.S. to re-invest in REMs to achieve self-sufficiency for itself and its close allies.
- Unilateral or multilateral approach
- WTO
- GATT exception
- Form new partnerships with countries which have existing cooperation
Questions?

Barbara Clements & Associates, Inc.
www.barbclementsassociates.com
877-Nab-Barb (622-2272)