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SUPPLEMENT NO. 1 TO PART 743 - WASSENAAR ARRANGEMENT PARTICIPATING STATES..... 1

§ 743.1 WASSENAAR ARRANGEMENT

(a) Scope

This section outlines special reporting requirements for exports of certain commodities, software and technology controlled under the Wassenaar Arrangement. Such reports must be submitted to BIS semiannually in accordance with the provisions of paragraph (f) of this section, and records of all exports subject to the reporting requirements of this section must be kept in accordance with part 762 of the EAR. This section does not require reports for reexports. This section is limited to the Wassenaar Arrangement reporting requirements for items listed on the Wassenaar Arrangement's Dual-Use list. For reporting requirements for conventional arms listed on the Wassenaar Arrangement Munitions List that are subject to the EAR (i.e., "600 series" ECCNs), see § 743.4 of this part for Wassenaar Arrangement and United Nations reporting requirements.

NOTE TO PARAGRAPH (a) OF THIS SECTION: *For purposes of part 743, the term "you" has the same meaning as the term "exporter", as defined in part 772 of the EAR.*

(b) Requirements

You must submit two (2) copies of each report required under the provisions of this section and maintain accurate supporting records (see §762.2(b) of the EAR) for all exports of items specified in paragraph (c) of this section for the following:

(1) Exports authorized under License Exceptions GBS, CIV, TSR, LVS, APP, and the cooperating government portions (§§740.11(b)(2)(iii) and 740.11(b)(2)(iv) of the EAR) of GOV (see part 740 of the EAR). Note that exports of technology and source code under License Exception TSR to foreign nationals located in the U.S. should not be reported; and

(2) Exports authorized under the Special Comprehensive License procedure (see part 752 of the EAR).

(3) Exports authorized under the Validated End-User authorization (see §748.15 of the EAR).

(4) Exports authorized under License Exception STA (See § 740.20 of the EAR).

(c) Items for which reports are required

You must submit reports to BIS under the provisions of this section only for exports of items on the Sensitive List (see Supplement No. 6 to part 774 of the EAR).

(d) Country Exceptions

You must report each export subject to the provisions of this section, except for exports to Wassenaar member countries, as identified in Supplement No. 1 to part 743.

(e) Information that must be included in each report

(1) Each report submitted to BIS for items other than those identified in paragraph (e)(2) of this section must include the following information for each export during the time periods specified in paragraph (f) of this section:

(i) Export Control Classification Number and paragraph reference as identified on the Commerce Control List;

(ii) Number of units in the shipment; and

NOTE TO PARAGRAPH (e)(1)(ii)*: For exports of technology for which reports are required under §743.1(c) of this section, the number of units in the shipment should be reported as one (1) for the initial export of the technology to a single ultimate consignee. Additional exports of the technology must be reported only when the type or scope of technology changes or exports are made to other ultimate consignees. Additionally, do not report the release of technology or source code subject to the EAR to foreign nationals in the U.S.*

(iii) Country of ultimate destination.

(2) [RESERVED]

(f) Frequency and timing of reports

You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six month time periods spanning from January 1 through June 30 and July 1 through December 31.

(1) The first report must be submitted to and received by BIS no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. Thereafter, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.

(2) Reports for the reporting period ending June 30 must be submitted to and received by BIS no later than August 1.

(3) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.

(g) Mailing address and facsimile number

(1) Two (2) copies of reports required under this section shall be delivered via courier to:

Bureau of Industry and Security
U.S. Department of Commerce
Attn: "Wassenaar Reports"
Room 2099B
14th Street and Pennsylvania Ave., NW.
Washington, DC 20230

BIS will not accept reports sent C.O.D.

(2) Reports may also be sent by facsimile to: (202) 482-3345, Attn: "Wassenaar Reports".

(h) Contacts

General information concerning the Wassenaar Arrangement and reporting obligations thereof is available from the Office of Strategic Trade and Foreign Policy Controls, Tel: (202) 482-0092, Fax: (202) 482-4094.

§ 743.2 HIGH PERFORMANCE COMPUTERS: POST SHIPMENT VERIFICATION REPORTING

(a) Scope

This section outlines special post-shipment reporting requirements for exports of certain computers to destinations in Computer Tier 3, see §740.7(d) for a list of these destinations. Post-shipment reports must be submitted in

accordance with the provisions of this section, and all relevant records of such exports must be kept in accordance with Part 762 of the EAR.

(b) Requirement

Exporters must file post-shipment reports and keep records in accordance with recordkeeping requirements in part 762 of the EAR for high performance computer exports to destinations in Computer Tier 3, as well as, exports of commodities used to enhance computers previously exported or reexported to Computer Tier 3 destinations, where the "Adjusted Peak Performance" ("APP") is greater than 3.0 Weighted TeraFLOPS (WT).

(c) Information that must be included in each post-shipment report

No later than the last day of the month following the month in which the export takes place, the exporter must submit the following information to BIS at the address listed in paragraph (d) of this section:

(1) Exporter name, address, and telephone number;

(2) License number;

(3) Date of export;

(4) End-user name, point of contact, address, telephone number;

(5) Carrier;

(6) Air waybill or bill of lading number;

(7) Commodity description, quantities - listed by model numbers, serial numbers, and APP level in WT; and

(8) Certification line for exporters to sign and date. The exporter must certify that the information contained in the report is accurate to the best of his or her knowledge.

NOTE TO PARAGRAPH (c) OF THIS SECTION*: Exporters are required to provide the PRC End-User Certificate Number to BIS as part of their post-shipment report. When providing the PRC End-User Certificate Number to BIS, you must identify the transaction in the post shipment report to which that PRC End-User Certificate Number applies.*

(d) Address

A copy of the post-shipment report[s] required under paragraph (b) of this section shall be delivered, via courier, to:

U.S. Department of Commerce
Office of Enforcement Analysis
HPC Team
14th Street and Constitution Ave., NW.
Room 4065
Washington, DC 20230

Note that BIS will not accept reports sent C.O.D.

§ 743.3 THERMAL IMAGING CAMERA REPORTING

(a) ***General requirement***.

Exports of thermal imaging cameras must be reported to BIS as provided in this section.

(b) ***Transactions to be reported***

Exports that are not authorized by an individually validated license of thermal imaging cameras controlled by ECCN 6A003.b.4.b to Albania, Australia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea Spain, Sweden, Switzerland, Turkey, or the United Kingdom must be reported to BIS.

(c) ***Party responsible for reporting***

The exporter as defined in § 772.1 of the EAR must ensure the reports required by this section are submitted to BIS.

(d) Information to be included in the reports

For each export described in paragraph (b) of this section, the report must identify: the name, address, and telephone number of the exporter; the date of each export; the name, address and telephone number of the consignee or end user; the model number(s) of each camera exported; the serial number of each exported camera that has a serial number; and the quantity of each model number of camera exported. (NOTE: Technical specifications may be requested on an as needed basis and must be provided to BIS after any such request.)

(e) ***Where to submit reports***

Submit the reports via e-mail to UTICreport@bis.doc.gov.

(f) Reporting periods and due dates

This reporting requirement applies to exports made on or after May 22, 2009. Exports must be reported within one month of the reporting period in which the export takes place. The first reporting period begins on May 22, 2009 and runs through June 30, 2009. Subsequent reporting periods shall begin on January 1 and July 1of each year, and shall run through June 30, and December 31 respectively. Exports in each reporting period must be reported to BIS no later than the last day of the month following the month in which the reporting period ends.

§ 743.4 CONVENTIONAL ARMS REPORTING

(a) ***Scope***

This section outlines special reporting requirements for exports of certain items listed on the Wassenaar Arrangement Munitions List and the UN Register of Conventional Arms. Participating States of the Wassenaar Arrangement exchange information every six months on deliveries to non-participating states of conventional arms set forth in the *Wassenaar Arrangement's Basic Documents* under Part II Guideline and Procedures, including the Initial Elements, Appendix 3: Specific Information Exchange on Arms Content by Category (at www.wassenaar.org), derived from the categories of the UN Register of Conventional Arms (at www.un.org/disarmament/convarms/Register/). Similar, although not identical, information is also reported by the U.S. Government to the United Nations on an annual basis. The reported information should include the quantity and the name of the recipient state and, except in the category of missiles and missile launchers, details of model and type. Such reports must be submitted to BIS semi-annually in accordance with the provisions of paragraph (f) of this section for items identified in paragraph (c)(1) and annually for items identified in paragraph (c)(2), and records of all exports subject to the reporting requirements of this section must be kept in accordance with part 762 of the EAR. This section does not require reports for reexports or transfers (in-country).

NOTE TO PARAGRAPH (a): *For purposes of § 743.4, the term "you" has the same meaning as the term "exporter", as defined in part 772 of the EAR.*

(b) Requirements

You must submit one electronic copy of each report required under the provisions of this section and maintain accurate supporting records (see § 762.2(b) of the EAR) for all exports of items specified in paragraph (c) of this section for the following:

(1) Exports authorized under License Exceptions LVS, TMP, RPL, STA, or GOV (see part 740 of the EAR);

(2) Exports authorized under the Special Comprehensive License procedure (see part 752 of the EAR); and

(3) Exports authorized under the Validated End User authorization (see § 748.15 of the EAR).

(c) Items for which reports are required --

(1) Wassenaar Arrangement reporting. You must submit reports to BIS under the provisions of this section only for exports of items classified under the following ECCNs:

(i) [RESERVED]

(ii) [RESERVED]

(2) United Nations reporting. You must submit reports to BIS under the provisions of this section only for exports of items classified under the following ECCNs:

(i) [RESERVED]

(ii) [RESERVED]

(d) Country Exceptions for Wassenaar Arrangement reporting

You must report each export subject to the provisions of this section, except for exports to Wassenaar member countries, identified in Supplement No. 1 to part 743 for reports required under paragraph (c)(1) of this section.

(e) Information that must be included in each report

(1) Each report submitted to BIS for items other than those identified in paragraph (e)(2) of this section must include the following information for each export during the time periods specified in paragraph (f) of this section:

(i) Export Control Classification Number and paragraph reference as identified on the Commerce Control List;

(ii) Number of units in the shipment; and

NOTE TO PARAGRAPH (e)(1)(ii): *For exports of technology for which reports are required under § 743.1(c) of this section, the number of units in the shipment should be reported as one* ***(1)*** *for the initial export of the technology to a single ultimate consignee. Additional exports of the technology must be reported only when the type or scope of technology changes or exports are made to other ultimate consignees.*

(iii) Country of ultimate destination.

(f) Frequency and timing of reports –

(1) Semi-annual reports for items identified in paragraph (c)(1) of this section. You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six-month time periods from January 1 through June 30 and July 1 through December 31.

(i) The first report must be submitted to and received by BIS no later than 180 days after the effective date of the rule that revises paragraph (c)(1) of this section to add the ECCN for the item being reported . Thereafter, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.

(ii) Reports for the reporting period ending June 30 must be submitted to and received by BIS no later than August 1.

(iii) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.

(2) Annual reports for items identified in paragraph (c)(2) of this section. You must

submit reports subject to the provisions of this section annually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during twelve month time periods from January 1 through December 31.

(i) The first report must be submitted to and received by BIS no later than 180 days after the effective date of the rule that revises paragraph (c)(1) of this section to add the ECCN for the item being reported.. Thereafter, reports are due according to the provisions of paragraph (f)(2) of this section.

(ii) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.

(g) Submission of reports

Information should be submitted in the form of a spreadsheet and emailed to WAreports@BIS.DOC.GOV or UNreports@BIS.DOC.GOV.

(h) Contacts

General information concerning the Wassenaar Arrangement and reporting obligations thereof is available from the Office of National Security and Technology Transfer Controls, Tel. (202) 482-0092, Fax: (202) 482-4094.

§ 743.5 PRIOR NOTIFICATIONS TO CONGRESS OF EXPORTS OF "600 SERIES MAJOR DEFENSE EQUIPMENT"

(a) General requirement

Applications to export items on the Commerce Control List that are "600 Series Major Defense Equipment" will be notified to Congress as provided in this section before licenses for such items are issued.

(1) Exports of "600 Series Major Defense Equipment" to U.S. Government end users under License Exception GOV (§ 740.11(b) of the EAR) do not require such notification.

(2) Exports of "600 Series Major Defense Equipment" that have been or will be described in a notification filed by the U.S. State Department under the Arms Export Control Act do not require such notification by BIS.

(b) BIS will notify Congress prior to issuing a license authorizing the export of items to a country *outside* the countries listed in Country Group A:5 (see Supplement No.1 to part 740 of the EAR) that are sold under a contract that includes $14,000,000 or more of "600 Series Major Defense Equipment."

(c) BIS will notify Congress prior to issuing a license authorizing the export of items to a country listed in Country Group A:5 (see Supplement No.1 to part 740 of the EAR) that are sold under a contract that includes $25,000,000 or more of "600 Series Major Defense Equipment."

(d) In addition to information required on the application, the exporter must include a copy of the signed contract (including a statement of the value of the "600 Series Major Defense Equipment" items to be exported under the contract) for any proposed export described in paragraphs (b) or (c) of this section.

(e) Address

Munitions Control Division at bis.compliance@bis.doc.gov.

SUPPLEMENT NO. 1 TO PART 743 - WASSENAAR ARRANGEMENT PARTICIPATING STATES

Argentina
Australia
Austria
Belgium
Bulgaria
Canada
Croatia
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Latvia
Lithuania
Luxembourg
Malta
Mexico
Netherlands
New Zealand
Norway
Poland
Portugal
Romania
Russia
Slovakia
Slovenia
South Africa
South Korea
Spain
Sweden
Switzerland
Turkey
Ukraine
United Kingdom
United States