Table of Contents

§ 742.1 INTRODUCTION 1

§ 742.2 PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS 3

§ 742.3 NUCLEAR NONPROLIFERATION..... 6

§ 742.4 NATIONAL SECURITY 8

§ 742.5 MISSILE TECHNOLOGY..... 10

§ 742.6 REGIONAL STABILITY 11

§ 742.7 CRIME CONTROL AND DETECTION 15

§ 742.8 ANTI-TERRORISM: IRAN..... 16

§ 742.9 ANTI-TERRORISM: SYRIA..... 17

§ 742.10 ANTI-TERRORISM: SUDAN.. 19

§ 742.11 SPECIALLY DESIGNED IMPLEMENTS OF TORTURE, INCLUDING THUMBSCREWS, THUMBCUFFS, FINGERCUFFS, SPIKED BATONS, AND PARTS AND ACCESSORIES, N.E.S. 22

§ 742.12 [RESERVED] 22

§ 742.13 COMMUNICATIONS INTERCEPTING DEVICES; SOFTWARE AND TECHNOLOGY FOR COMMUNICATIONS INTERCEPTING DEVICES..... 22

§ 742.14 SIGNIFICANT ITEMS: HOT SECTION TECHNOLOGY FOR THE DEVELOPMENT, PRODUCTION OR OVERHAUL OF COMMERCIAL AIRCRAFT ENGINES, COMPONENTS, AND SYSTEMS..... 24

§ 742.15 ENCRYPTION ITEMS 24

§ 742.16 [RESERVED] 31

§ 742.17 EXPORTS OF FIREARMS TO OAS MEMBER COUNTRIES..... 31

§ 742.18 CHEMICAL WEAPONS CONVENTION (CWC OR CONVENTION)..... 32

§ 742.19 ANTI-TERRORISM: NORTH KOREA..... 34

SUPPLEMENT NO. 1 TO PART 742 - NONPROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS 1

SUPPLEMENT NO. 2 TO PART 742 - ANTI-TERRORISM CONTROLS: NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES..... 1

SUPPLEMENT NO. 3 - [RESERVED] 1

SUPPLEMENT NO. 4 – [RESERVED]..... 1

SUPPLEMENT NO. 5 TO PART 742 - ENCRYPTION REGISTRATION.... 1

SUPPLEMENT NO. 6 TO PART 742 --TECHNICAL QUESTIONNAIRE FOR ENCRYPTION ITEMS 1

SUPPLEMENT NO. 7 TO PART 742 --DESCRIPTION OF MAJOR WEAPONS SYSTEMS..... 1

SUPPLEMENT NO. 8 TO PART 742 - SELF-CLASSIFICATION REPORT FOR ENCRYPTION ITEMS 1

§ 742.1 INTRODUCTION

In this part, references to the Export Administration Regulations (EAR) are References to 15 CFR Chapter VII, Subchapter C.

(a) Scope

This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes

licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. In addition to describing the reasons for control and licensing requirements and policies, this part describes any applicable contract sanctity provisions that may apply to specific controls and includes a description of any multilateral regime under which specific controls are maintained.

(b) Reasons for control listed on the CCL not covered by this part

This part describes the license requirements and the licensing policies for all the "Reasons for Control" that are listed on the Commerce Control List (CCL) *except* "Short Supply" and "U.N. Sanctions", which do not appear on the Country Chart.

(1) Short Supply. ECCNs containing items subject to short supply controls ("SS") refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil); 1C982 (certain other petroleum products); 1C983 (certain natural gas liquids and other natural gas derivatives); 1C984 (certain manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy); and 1C988 (Unprocessed western red cedar (thuja plicata) logs and timber, and rough, dressed and worked lumber containing wane).

(2) U.N. Sanctions. The United Nations imposes sanctions, short of complete embargoes, against certain countries which may result in controls that supplement those otherwise maintained under the EAR for that particular country. This part does *not* address license requirements and licensing policies for controls implementing U.N. sanctions. CCL entries containing items subject to U.N. sanctions will refer the exporter to part 746 of the EAR, Embargoes and Other Special Controls, for any supplemental controls that may apply to exports and reexports involving these countries.

(c) Exports and reexports involving Cuba and Iran

This part does *not* cover license requirements and licensing policies that apply to exports and reexports to embargoed destinations (Cuba and Iran). These comprehensive embargoes cover a broader range of items than those reflected in the CCL. If you are exporting or reexporting to any of these destinations, you should first review part 746 of the EAR, Embargoes and Other Special Controls.

(d) Anti-terrorism Controls on Cuba, Iran, North Korea, Sudan and Syria

Commerce maintains anti-terrorism controls on Cuba, Iran, North Korea, Syria and Sudan under section 6(a) of the Export Administration Act. Items controlled under section 6(a) to Iran, Syria, Sudan, and North Korea are described in §§742.8, 742.9, 742.10, and 742.19, respectively, and in Supplement No. 2 to part 742. Commerce also maintains controls under section 6(j) of the EAA to Cuba, Iran, North Korea, Sudan and Syria. Items controlled to these countries under EAA section 6(j) are also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to Cuba, North Korea, Iran, Sudan or Syria. If you are exporting or reexporting to Cuba, Iran, North Korea, or Syria, you should review part 746 of the EAR, Embargoes and Other Special Controls.

(e) End-user and end-use based controls

This part does not cover prohibitions and licensing requirements for exports of items not included on the CCL that are subject to end-use and end-user controls: certain nuclear end-uses; certain missile end-uses; certain chemical and biological weapons end-uses; certain naval nuclear propulsion end-uses; certain activities of U.S. persons; and certain exports to and for the use of certain foreign vessels or aircraft. Licensing requirements and policies for these exports are contained in part 744 of the EAR.

(f) Overlapping license policies

Many items on the CCL are subject to more than one type of control (e.g., national security (NS), missile technology (MT), nuclear nonproliferation (NP), regional stability (RS)). In addition, applications for all items on the CCL, other than those controlled for short supply reasons, may be reviewed for missile technology (see §742.5(b)(3) of this part), nuclear nonproliferation (see §742.3(b)(2) of this part), or chemical and biological weapons (see §742.2(b)(3) of this part), if the end-use or end-user may be involved in certain proliferation activities. Finally, many multilaterally controlled items are reviewed for anti-terrorism reasons if they are destined for a terrorism-supporting country (see paragraph (d) of this section). Your application for a license will be reviewed under all applicable licensing policies. A license will be issued only if an application can be approved under *all applicable* licensing policies.

§ 742.2 PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

(a) License requirements

The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons. (See also §742.18 of this part for license requirements pursuant to the Chemical Weapons Convention).

(1) If CB Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations, including Canada, for the following:

(i) Human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens identified in ECCNs 1C351, 1C352, 1C353, and 1C354; and

(ii) Technology (ECCNs 1E001 and 1E351) for the production and/or disposal of microbiological commodities described in paragraph (a)(1)(i) of this section.

(2) If CB Column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations except countries in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR) (Australia Group members) for the following:

(i) Chemicals identified in ECCN 1C350 (precursor and intermediate chemicals used in the production of chemical warfare agents).

(A) This license requirement includes chemical mixtures identified in ECCN 1C350.b, .c, or .d, except as specified in License Requirements Note 2 to that ECCN.

(B) This licensing requirement does not include chemical compounds created with any chemicals identified in ECCN 1C350, unless those compounds are also identified in ECCN 1C350.

(C) This licensing requirement does not apply to any of the following medical, analytical,

diagnostic, and food testing kits that consist of pre-packaged materials of defined composition that are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes:

(*1*) Test kits containing no more than 300 grams of any chemical controlled by ECCN 1C350.b or .c (CB-controlled chemicals also identified as Schedule 2 or 3 chemicals under the CWC) that are destined for export or reexport to CWC States Parties (destinations listed in Supplement No. 2 to part 745 of the EAR). Such test kits are controlled by ECCN 1C395 for CB and CW reasons, to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR), and for AT reasons.

(*2*) Test kits that contain no more than 300 grams of any chemical controlled by ECCN 1C350.d (CB-controlled chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC). Such test kits are controlled by ECCN 1C995 for AT reasons.

(ii) Software (ECCN 1D390) for process control that is specifically configured to control or initiate production of the chemical precursors controlled by ECCN 1C350.

(iii) Technology (ECCN 1E001) for the development or production of chemical detection systems and dedicated detectors therefore, controlled by ECCN 1A004.c, that also have the technical characteristics described in ECCN 2B351.a.

(iv) Technology (ECCNs 1E001 and 1E350) involving the following for facilities designed or intended to produce chemicals described in 1C350:

(A) Overall plant design;

(B) Design, specification, or procurement of equipment;

(C) Supervision of construction, installation, or operation of complete plant or components thereof;

(D) Training of personnel; or

(E) Consultation on specific problems involving such facilities.

(v) Technology (ECCNs 1E001 and 1E351) for the production and/or disposal of chemical precursors described in ECCN 1C350;

(vi) Equipment and materials identified in ECCN 2B350 or 2B351 on the CCL, chemical detection systems controlled by 1A004.c for detecting chemical warfare agents and having the characteristics of toxic gas monitoring systems described in 2B351.a, and valves controlled by ECCN 2A226 or ECCN 2A292 having the characteristics of those described in 2B350.g, which can be used in the production of chemical weapons precursors or chemical warfare agents.

(vii) Equipment and materials identified in ECCN 2B352, which can be used in the production of biological agents.

(viii) Dedicated software identified in ECCN 2D351 for the “use” of toxic gas monitoring systems and their dedicated detecting components controlled by ECCN 2B351.

(ix) Technology identified in ECCN 2E001 for the “development” of software controlled by ECCN 2D351.

(x) Technology identified in ECCN 2E001, 2E002, or 2E301 for:

(A) The development, production, or use of items controlled by ECCN 2B350, 2B351, or 2B352; or

(B) The development or production of valves controlled by ECCN 2A226 or 2A292

having the characteristics of those described in ECCN 2B350.g.

(xi) Technology identified in ECCN 2E201 or 2E290 for the use of valves controlled by ECCN 2A226 or 2A292 having the characteristics of those described in 2B350.g.

(3) If CB Column 3 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to Country Group D:3 (see Supplement No. 1 to part 740 of the EAR) for medical products identified in ECCN 1C991.d.

(4) A license is required, to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR), for mixtures controlled by ECCN 1C395.a and test kits controlled by ECCN 1C395.b.

(b) Licensing policy

(1) License applications for the items described in paragraph (a) of this section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the design, development, production, stockpiling or use of chemical or biological weapons. When an export or reexport is deemed to make such a material contribution, the license will be denied. When an export or reexport is intended to be used in a chemical weapons or biological weapons program, or for chemical or biological weapons terrorism purposes, it is deemed to make a material contribution. The factors listed in paragraph (b)(2) of this section are among those that will be considered to determine what action should be taken on license applications for these items.

(2) The following factors are among those that will be considered to determine what action should be taken on license applications for the items described in paragraph (a) of this section:

(i) The specific nature of the end-use, including the appropriateness of the stated end-use;

(ii) The significance of the export and reexport in terms of its potential contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;

(iii) The nonproliferation credentials of the importing country, including the importing country's chemical and biological capabilities and objectives;

(iv) The extent and effectiveness of the export control system in the importing country and in any intermediary country through which the items being exported or reexported will transit or be transshipped en route to the importing country;

(v) The risk that the items will be diverted for use in a chemical weapons or biological weapons program, or for chemical weapons or biological weapons terrorism purposes;

(vi) The reliability of the parties to the transaction, including whether:

(A) An export or reexport license application involving any such parties has previously been denied;

(B) Any such parties have been engaged in clandestine or illegal procurement activities;

(C) The end-user is capable of securely handling and storing the items to be exported or reexported;

(vii) Relevant information about proliferation and terrorism activities, including activities involving the design, development, production, stockpiling, or use of chemical or

biological weapons by any parties to the transaction;

(viii) The types of assurances or guarantees against the design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case, including any relevant assurances provided by the importing country or the end-user;

(ix) The applicability of other multilateral export control or nonproliferation agreements (e.g., the Chemical Weapons Convention and the Biological and Toxin Weapons Convention) to the transaction; and

(x) The existence of a pre-existing contract.

(3) BIS will review license applications in accordance with the licensing policy described in paragraph (b)(1) of this section for items not described in paragraph (a) of this section that:

(i) Require a license for reasons other than short supply; *and*

(ii) Could be destined for the design, development, production, stockpiling, or use of chemical or biological weapons, or for a facility engaged in such activities.

(4) License applications for items described in paragraph (a) of this section, when destined for the People's Republic of China, will be reviewed in accordance with the licensing policies in both paragraph (b) of this section and §742.4(b)(7).

(c) Contract sanctity

Contract sanctity dates are set forth in Supplement No. 1 to part 742. Applicants who wish that a pre-existing contract be considered in reviewing their license applications must submit documentation sufficient to establish the existence of such a contract.

(d) Australia Group

The Australia Group, a multilateral body that works to halt the spread of chemical and biological weapons, has developed common control lists of items specifically related to chemical and biological weapons. Australia Group members are listed in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR). Controls on items listed in paragraph (a) of this section are consistent with lists agreed to in the Australia Group.

(e) License application requirements and instructions

Unique application and submission requirements for chemicals, medicinals, and pharmaceuticals are described in paragraph (a) of Supplement No. 2 to part 748 of the EAR.

§ 742.3 NUCLEAR NONPROLIFERATION

(a) License requirements

Section 309(c) of the Nuclear Non-Proliferation Act of 1978 requires BIS to identify items subject to the EAR that could be of significance for nuclear explosive purposes if used for activities other than those authorized at the time of export or reexport. ECCNs on the CCL that include the symbols "NP" or "NP 2" in the "Country Chart" column of the "License Requirements" section identify items that could be of significance for nuclear explosive purposes and are therefore subject to licensing requirements under this part and under section 309(c) of the Nuclear Non-Proliferation Act of 1978. These items are referred to as "The Nuclear Referral List" and are subject to the following licensing requirements:

(1) If NP Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is

required to all destinations, except those Nuclear Suppliers Group (NSG) member countries that are listed under Country Group A:4 in Supplement No. 1 to part 740 of the EAR.

(2) If NP Column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the applicable ECCN, a license is required to Country Group D:2 (see Supplement No. 1 to part 740 of the EAR).

(3) Other nuclear-related license requirements are described in §§744.2 and 744.5 of the EAR.

(b) Licensing policy

(1) To implement the controls in paragraph (a) of this section, the following factors are among those used to determine what action should be taken on individual applications:

(i) Whether the items to be transferred are appropriate for the stated end-use and whether that stated end-use is appropriate for the end-user;

(ii) The significance for nuclear purposes of the particular item;

(iii) Whether the items to be exported or reexported are to be used in research on, or for the development, design, manufacture, construction, operation, or maintenance of, any reprocessing or enrichment facility;

(iv) The types of assurances or guarantees given against use for nuclear explosive purposes or proliferation in the particular case;

(v) Whether any party to the transaction has been engaged in clandestine or illegal procurement activities;

(vi) Whether an application for a license to export or reexport to the end-user has previously been denied, or whether the end-user has previously diverted items received under a general license, a License Exception, or a validated license to unauthorized activities;

(vii) Whether the export or reexport would present an unacceptable risk of diversion to a nuclear explosive activity or unsafeguarded nuclear fuel-cycle activity described in §744.2(a) of the EAR;

(viii) The nonproliferation credentials of the importing country, based on consideration of the following factors:

(A) Whether the importing country is a party to the Nuclear Non-Proliferation Treaty (NPT) or to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) or to a similar international legally-binding nuclear nonproliferation agreement;

(B) Whether the importing country has all of its nuclear activities, facilities, or installations that are operational, being designed, or under construction under International Atomic Energy Agency (IAEA) safeguards or equivalent full scope safeguards;

(C) Whether there is an agreement for cooperation in the civil uses of atomic energy between the U.S. and the importing country;

(D) Whether the actions, statements, and policies of the government of the importing country are in support of nuclear nonproliferation and whether that government is in compliance with its international obligations in the field of non-proliferation;

(E) The degree to which the government of the importing country cooperates in non-proliferation policy generally (e.g., willingness to consult on international nonproliferation issues); and

(F) Information on the importing country's nuclear intentions and activities; and

(ix) Whether the recipient state has sufficient national export controls (as described in paragraph 3 of United Nations Security Council Resolution 1540 (2004)) to prevent an unacceptable risk of retransfer or diversion to a nuclear explosive activity or unsafeguarded nuclear fuel-cycle activity described in § 744.2(a) of the EAR.

(2) In addition, BIS will review license applications in accordance with the licensing policy described in paragraph (b) of this section for items *not* on the Nuclear Referral List that:

(i) Require a license on the CCL for reasons other than "short supply;" and

(ii) Are intended for a nuclear related end-use or end-user.

(3) For the People's Republic of China, the general licensing policy for applications for those items that would make a direct and significant contribution to nuclear weapons and their delivery systems is extended review or denial.

(4) License applications for items described in paragraph (a) of this section, when destined to the People's Republic of China, will be reviewed in accordance with the licensing policies in both paragraph (b) of this section and §742.4(b)(7).

(c) Contract sanctity

Contract sanctity provisions are not available for license applications reviewed under this section.

(d) Nuclear Suppliers Group

Most items on the Nuclear Referral List that require a license under NP Column No. 1 on the Country Chart (see Supplement No. 1 to part 738 of the EAR) are contained in the Annex to the "Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology" (the Annex), as published by the International Atomic Energy Agency in INFCIRC/254/Revision 1/Part 2. The adherents to INFCIRC/254/Revision 1/Part 2, which includes the Nuclear Suppliers Guidelines, have agreed to establish export licensing procedures for the transfer of items identified in the Annex. Items that are listed as requiring a license under NP Column No. 2 on the Country Chart (see Supplement No. 1 to part 738 of the EAR) are not included in the Annex and are controlled only by the United States**.**

§ 742.4 NATIONAL SECURITY

(a) License requirements

It is the policy of the United States to restrict the export and reexport of items that would make a significant contribution to the military potential of any other country or combination of countries that would prove detrimental to the national security of the United States. Accordingly, a license is required for exports and reexports to all destinations, except Canada, for all items in ECCNs on the CCL that include NS Column 1 in the Country Chart column of the "License Requirements" section. A license is required to all destinations except Country Group A:1 and cooperating countries (see Supplement No. 1 to part 740), Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia for all items in ECCNs on the CCL that include NS column 2 in the Commerce Country Chart column of the "License Requirements" section except those cameras in ECCN 6A003.b.4.b that have a focal plane array with 111,000 or fewer elements and a frame rate of 60 Hz or less. A license is required to all destinations except Albania, Australia, Austria, Belgium, Bulgaria, Canada, 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, and the United Kingdom for those cameras in ECCN 6A003.b.4.b that have a focal plane array with 111,000 or fewer elements and a frame rate of 60 Hz or less and for cameras being exported or reexported pursuant to an authorization described in 742.6(a)(2)(iii) or (v) of the EAR. The purpose of the controls is to ensure that these items do not make a contribution to the military potential of countries in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) that would prove detrimental to the national security of the United States. License Exception GBS is available for the export and reexport of certain national security controlled items to Country Group B (see §740.4 and Supplement No. 1 to part 740 of the EAR).

(b) Licensing policy

(1)(i) The policy for national security controlled items exported or reexported to any country except a country in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) is to approve applications unless there is a significant risk that the items will be diverted to a country in Country Group D:1.

(ii) When destined to a country listed in Country Group D:5 in Supplement No. 1 to Part 740 of the EAR, however, items classified under 9x515 or "600 series" ECCNs will be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR.

(iii) When destined to the People's Republic of China or a country listed in Country Group E:1 in Supplement No. 1 to Part 740 of the EAR, items classified under any 9x515 ECCN will be subject to a policy of denial.

(2) Except for those countries described in paragraphs (b)(5) through (b)(7) of this section, the general policy for exports and reexports of items to Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) is to approve applications when BIS determines, on a case-by-case basis, that the items are for civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States.

(3) To permit such policy judgments to be made, each application is reviewed in the light of prevailing policies with full consideration of all aspects of the proposed transaction. The review generally includes:

(i) An analysis of the kinds and quantities of items to be shipped;

(ii) Their military or civilian uses;

(iii) The unrestricted availability abroad of the same or comparable items;

(iv) The country of destination;

(v) The ultimate end-users in the country of destination; and

(vi) The intended end-use.

(4) Although each proposed transaction is considered individually, items described in Advisory Notes on the Commerce Control List are more likely to be approved than others.

(5) In recognition of efforts made to adopt safeguard measures for exports and reexports, Kazakhstan and Mongolia are accorded enhanced favorable consideration licensing treatment.

(6) The general policy for Cambodia and Laos is to approve license applications when BIS determines, on a case-by-case basis, that the

items are for an authorized use in Cambodia or Laos and are not likely to be diverted to another country or use contrary to the national security or foreign policy controls of the United States.

(7) For the People's Republic of China (PRC), there is a general policy of approval for license applications to export, reexport, or transfer items to civil end-uses. There is a presumption of denial for license applications to export, reexport, or transfer items that would make a direct and significant contribution to the PRC's military capabilities such as, but not limited to, the major weapons systems described in Supplement No. 7 to Part 742 of the EAR.

(c) Contract sanctity

Contract sanctity provisions are not available for license applications reviewed under this section.

(d) [RESERVED]

§ 742.5 MISSILE TECHNOLOGY

(a) License requirements

(1) In support of U.S. foreign policy to limit the proliferation of missiles, a license is required to export and reexport items related to the design, development, production, or use of missiles. These items are identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the "License Requirements" section. Licenses for these items are required to all destinations, except Canada, as indicated by MT Column 1 of the Country Chart (see Supplement No. 1 to part 738 of the EAR).

(2) The term "missiles" is defined as rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least 500 kilograms (kg) payload to a range of at least 300 kilometers (km). See §746.3 of the EAR for definition of a "ballistic missile" to be exported or reexported to Iraq.

(b) Licensing policy

(1) Applications to export and reexport items identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the "License Requirements" section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the proliferation of missiles. Applications for exports and reexports of such items contained in Category 7A or described by ECCN 9A101 on the CCL will be considered more favorably if such exports or reexports are determined to be destined to a manned aircraft, satellite, land vehicle, or marine vessel, in quantities appropriate for replacement parts for such applications. When an export or reexport is deemed to make a material contribution to the proliferation of missiles, the license will be denied.

(2) The following factors are among those that will be considered in reviewing individual applications.

(i) The specific nature of the end-use;

(ii) The significance of the export and reexport in terms of its contribution to the design, development, production, or use of missiles;

(iii) The capabilities and objectives of the missile and space programs of the recipient country;

(iv) The nonproliferation credentials of the importing country;

(v) The types of assurances or guarantees against design, development, production, or use of missiles that are given in a particular case; and

(vi) The existence of a pre-existing contract.

(3) Controls on other items. BIS will review license applications, in accordance with the licensing policy described in paragraph (b)(1) of this section, for items *not* described in paragraph (a) of this section that:

(i) Require a validated license for reasons other than short supply; and

(ii) Could be destined for the design, development, production, or use of missiles, or for a facility engaged in such activities.

(4) License applications for items described in paragraph (a) of this section, when destined for the People's Republic of China, will be reviewed in accordance with the licensing policies in both paragraph (b) of this section and §742.4(b)(7).

(c) Contract sanctity

The following contract sanctity dates have been established:

(1) License applications for batch mixers specified in ECCN 1B117 involving contracts that were entered into prior to January 19, 1990, will be considered on a case-by-case basis.

(2) License applications subject to ECCN 1B115.b or .c that involve a contract entered into prior to March 7, 1991, will be considered on a case-by-case basis.

(3) Applicants who wish that a pre-existing contract be considered in reviewing their license applications must submit documentation sufficient to establish the existence of a contract.

(d) Missile Technology Control Regime

Missile Technology Control Regime (MTCR) members, and India as an MTCR adherent, are listed in Country Group A:2 (see Supplement No. 1 to part 740 of the EAR). Controls on items identified in paragraph (a) of this section are consistent with the list agreed to in the MTCR and included in the MTCR Annex.

§ 742.6 REGIONAL STABILITY

(a) License requirements

The following controls are maintained in support of U.S. foreign policy to maintain regional stability:

(1) RS Column 1 license requirements in general. A license is required for exports and reexports to all destinations, except Canada, for all items in ECCNs on the CCL that include RS Column 1 in the Country Chart column of the "License Requirements" section. Transactions described in paragraphs (a)(2) or (3) of this section are subject to the RS Column 1 license requirements set forth in those paragraphs rather than the license requirements set forth in this paragraph (a)(1).

(2) Special RS Column 1 license requirements applicable to certain thermal imaging cameras.

(i) As indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003 b.4.b require a license to all destinations other than Canada if such cameras have a frame rate greater than 60 Hz.

(ii) Except as noted in paragraph (a)(2)(iii) of this section, as indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003 b.4.b require a license to all destinations other than Canada if such cameras incorporate a focal plane array with more than 111,000 elements and a frame rate of

60 Hz or less, or cameras described in 6A003 b.4.b that are being exported or reexported to be embedded in a civil product.

(iii) BIS may issue licenses for cameras subject to the license requirement of paragraph (a)(2)(ii) of this section that are fully-packaged for use as consumer-ready civil products that, in addition to the specific transactions authorized by such license, authorize exports and reexports of such cameras without a license to any civil end-user to whom such exports or reexport are not otherwise prohibited by U.S. law in 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, and the United Kingdom. The license requirements of this paragraph (a)(2) shall not apply to exports or reexports so authorized. In this paragraph, the term "civil end-user" means any entity that is not a national armed service (army, navy, marine, air force, or coast guard), national guard, national police, government intelligence organization or government reconnaissance organization, or any person or entity whose actions or functions are intended to support "military end-uses" as defined in § 744.17(d).

(iv) Except as noted in paragraph (a)(2)(v) of this section, as indicated in the CCL and in RS Column 1 of the Commerce Country Chart, cameras described in 6A003 b.4.b require a license to all destinations other than Canada if such cameras incorporate a focal plane array with 111,000 elements or less and a frame rate of 60 Hz or less and are being exported or reexported to be embedded in a civil product.

(v) BIS may also issue licenses for the cameras described in paragraph (a)(2)(iv) that, in addition to the specific transactions authorized by such license, authorize exports and reexports to authorized companies described in the license for the purpose of embedding such cameras into a completed product that will be distributed only in 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, and the United Kingdom. The license requirements of this paragraph (a)(2) shall not apply to exports or reexports so authorized. In this paragraph, the term "authorized companies" means companies that have been previously licensed for export, are not the subject of relevant negative intelligence or open source information, have not been the subject of a Department of Commerce or Department of State enforcement action within the past two years, have demonstrable production capacity, and do not pose an unacceptable risk of diversion.

(3) Special RS Column 1 license requirement applicable to military commodities. A license is required for reexports to all destinations except Canada for items classified under ECCN 0A919 except when such items are being reexported as part of a military deployment by a unit of the government of Albania, Australia, Austria, Belgium, Bulgaria, Canada, 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, the United Kingdom or the United States.

(4) RS Column 2 license requirements.

(i) ***License Requirements Applicable to Most RS Column 2 Items.*** As indicated in the

CCL and in RS Column 2 of the Commerce Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to any destination except Australia, Japan, New Zealand, and countries in the North Atlantic Treaty Organization (NATO) for all items in ECCNs on the CCL that include RS Column 2 in the Country Chart column of the ''License Requirements'' section.

(ii) ***Special RS Column 2 license requirements applicable only to certain cameras.*** As indicated by the CCL, and RS column 2 and footnote number 4 to the Commerce Country Chart, a license is required to any destination except Albania, Australia, Austria, Belgium, Bulgaria, Canada, 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, and the United Kingdom for fully-packaged thermal imaging cameras for use as consumer-ready civil products controlled by 6A003.b.4.b when incorporating "focal plane arrays" that have not more than 111,000 elements and a frame rate of 60Hz or less and that are not being exported or reexported to be embedded in
a civil product.

(5) RS requirements that apply to Iraq. As indicated on the CCL, a license is required for the export or reexport to Iraq or transfer within Iraq of the following items controlled for RS reasons on the CCL: 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992. The Commerce Country Chart is not designed to determine RS licensing requirements for these ECCNs.

(6) RS requirement that applies to Hong Kong. A license is required to export or reexport to Hong Kong any item controlled in ECCN 6A003.b.4.b

(7) RS Column 1 license requirements and related policies for ECCN 0Y521 items.

(i) ***Scope.*** This paragraph (a)(7) supplements the information in the 0Y521 ECCNs and in Supplement No. 5 to part 774 (Items Classified Under ECCNs 0A521, 0B521, 0C521, 0D521 and 0E521). This paragraph alerts exporters, reexporters and transferors to the procedures that apply to items classified under the 0Y521 ECCNs.

(ii) ***0Y521 Items.*** Items subject to the EAR that are not listed elsewhere in the CCL, but which the Department of Commerce, with the concurrence of the Departments of Defense and State, has determined should be controlled for export because the items provide at least a significant military or intelligence advantage to the United States or for foreign policy reasons are classified under ECCNs 0A521, 0B521, 0C521, 0D521 and 0E521. These items are typically emerging technologies (including emerging commodities, software and technology) that are not yet included in the CCL, so such items are listed on the CCL in 0Y521 ECCNs while the U.S. Government determines whether classification under a revised or new ECCN, or an EAR 99 designation, is appropriate. The list of items classified under a 0Y521 ECCN is limited to those listed in Supplement No. 5 to part 774.

(iii) ***Requirement to be classified under another ECCN within one calendar year of classification under ECCN 0Y521.*** Items classified under an ECCN 0Y521 entry must be re-classified under another ECCN within one calendar year from the date they are listed in Supplement No. 5 to part 774 of the EAR. If such re-classification does not occur within that period, classification under an ECCN 0Y521 entry expires, and such items are designated as EAR99 items unless either the CCL is amended to impose a control on such items under another

ECCN or the ECCN 0Y521 classification is extended. BIS may extend an item's ECCN 0Y521 classification for two one-year periods, provided that the U.S. Government has submitted a proposal to the relevant multilateral regime(s) to obtain multilateral controls over the item. Further extension beyond three years may occur only if the Under Secretary for Industry and Security makes a determination that such extension is in the national security or foreign policy interests of the United States. Any extension or re-extension of control of an ECCN 0Y521 item, including the determination by the Under Secretary, shall be published in the *Federal Register*.

(b) Licensing policy

(1) Applications for exports and reexports of 9x515 and "600 series" items will be reviewed on a case-by-case basis to determine whether the transaction is contrary to the national security or foreign policy interests of the United States, including the foreign policy interest of promoting the observance of human rights throughout the world. Other applications for exports and reexports described in paragraph (a)(1), (2), (6) or (7) of this section will be reviewed on a case-by-case basis to determine whether the export or reexport could contribute directly or indirectly to any country's military capabilities in a manner that would alter or destabilize a region's military balance contrary to the foreign policy interests of the United States. Applications for reexports of items described in paragraph (a)(3) of this section will be reviewed applying the policies for similar commodities that are subject to the ITAR. Applications for export or reexport of items classified under any 9x515 or "600 series" ECCN requiring a license in accordance with paragraph (a)(1) of this section will also be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR if destined to a country set forth in Country Group D:5 in Supplement No. 1 to part 740 of the EAR. Applications for export or reexport of "parts," "components," "accessories," "attachments," "software," or "technology" "specially designed" or otherwise required for the F-14 aircraft will generally be denied. When destined to the People's Republic of China or a country listed in Country Group E:1 in Supplement No. 1 to Part 740 of the EAR, items classified under any 9x515 ECCN will be subject to a policy of denial.

(2) Licensing policy for RS Column 2 items.

(i) Except as described in paragraph (b)(2)(ii), applications to export and reexport commodities described in paragraph (a)(4) of this section will generally be considered favorably on a case-by-case basis unless there is evidence that the export or reexport would contribute significantly to the destabilization of the region to which the equipment is destined.

(ii) Applications to export and reexport items controlled under ECCNs 2A984, 2D984 and 2E984 will be reviewed under a presumption of approval when exported or reexported to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden, provided the items to be exported or reexported are being made to a government end-user or to a person designated by the government end-user pursuant to contract. License applications to export to a designated person must include a statement from the government end-user that the person is so designated. See Supplement No. 2 to part 748, paragraph (k)(2).

(3) For terrorist-designated countries, the applicable licensing policies are found in parts 742 and 746 of the EAR

(4) See §746.3(b) of the EAR for the applicable licensing policies for items controlled for RS reasons to Iraq.

(c) Contract sanctity

(1) Contract sanctity date: March 21, 2003. This contract sanctity date applies only to items controlled under ECCNs 2A983, 2D983 and 2E983 destined for countries not listed in Country Group E (Supplement 1 to part 740). See parts 742 and 746 for the contract sanctity requirements applicable to exports and reexports to countries listed in Country Group E.

(2) Contract sanctity date: March 19, 2010. This contract sanctity date applies only to items controlled under ECCNs 2A984, 2D984 and 2E984 destined for countries not listed in Country Group E (Supplement 1 to part 740). See parts 742 and 746 for the contract sanctity requirements applicable to exports and reexports to countries listed in Country Group E.

(d) U.S. controls

Although the United States seeks cooperation from like-minded countries in maintaining regional stability controls, at this time these controls are maintained only by the United States.

§ 742.7 CRIME CONTROL AND DETECTION

(a) License requirements

In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export and reexport crime control and detection equipment, related technology and software as follows:

(1) Crime control and detection instruments and equipment and related technology and software identified in the appropriate ECCNs on the CCL under CC Column 1 in the Country Chart column of the "License Requirements" section. A license is required to countries listed in CC Column 1 (Supplement No. 1 to part 738 of the EAR). Items affected by this requirement are identified on the CCL under the following ECCNs: 0A978, 0A979, 0A984, 0A987, 0E984, 1A984, 1A985, 3A980, 3A981, 3D980, 3E980, 4A003 (for fingerprint computers only), 4A980, 4D001 (for fingerprint computers only), 4D980, 4E001 (for fingerprint computers only), 4E980, 6A002 (for police-model infrared viewers only), 6E001 (for police-model infrared viewers only), 6E002 (for police-model infrared viewers only), and 9A980.

(2) Shotguns with a barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 2 in the Country Chart column of the "License Requirements" section regardless of end-user to countries listed in CC Column 2 (Supplement No. 1 part 738 of the EAR).

(3) Shotguns with barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 3 in the Country Chart column of the "License Requirements" section only if for sale or resale to police or law enforcement entities in countries listed in CC Column 3 (Supplement No. 1 part 738 of the EAR).

(4) Certain crime control items require a license to all destinations, except Canada. These items are identified under ECCNs 0A982, 0A985, and 0E982. Controls for these items appear in each ECCN; a column specific to these controls does not appear in the Country Chart (Supplement No. 1 to part 738 of the EAR).

(5) Items designed for the execution of human beings as identified in ECCN 0A981 require a license to all destinations including Canada.

(6) See §742.11 of the EAR for further information on items controlled under ECCN 0A983, which require a license to all destinations, including Canada.

(b) Licensing policy

Applications for items controlled under this section will generally be considered favorably on a case-by-case basis unless there is civil disorder in the country or region or unless there is evidence that the government of the importing country may have violated internationally recognized human rights. The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.

(c) Contract sanctity

Contract sanctity date: August 22, 2000. Contract sanctity applies only to items controlled under ECCNs 0A982, 0A985 and 0E982 destined for countries not listed in CC Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR).

(d) U.S. controls

In maintaining its controls on crime control and detection items, the United States considers international norms regarding human rights and the practices of other countries that control exports to promote the observance of human rights. However, these controls are not based on the decisions of any multinational export control regime and may differ from controls imposed by other countries.

§ 742.8 ANTI-TERRORISM: IRAN

(a) License requirements

(1) A license is required for anti-terrorism purposes to export or reexport to Iran any item for which AT column 1 or AT column 2 is indicated in the Country Chart column of the applicable ECCN or any item described in ECCNs 1C350, 1C355, 1C395, 2A994, 2D994 and 2E994. See paragraph (a)(5) of this section for controls maintained by the Department of the Treasury. See §746.7 of the EAR for additional EAR license requirements that apply to Iran.

(2) [RESERVED]

(3) The Secretary of State has designated Iran as a country whose Government has repeatedly provided support for acts of international terrorism.

(4) In support of U.S. foreign policy applicable to terrorism- supporting countries, the EAR imposes anti-terrorism license requirements on exports and reexports to Iran pursuant to sections 6(j) and 6(a) of the Export Administration Act.

(i) ***Section 6(j) anti-terrorism controls***. Section 6(j) requirements apply to all exports and reexports destined to the police, military or other sensitive end-users of items listed on the Commerce Control List (Supp. No. 1 to part 774 of the EAR) for which any listed reason for control in the applicable ECCN is NS (national security), CB (chemical or biological weapons proliferation), MT (missile proliferation), NP (nuclear weapons proliferation) or an Export Control Classification Number ending in “18" (military related items). BIS may not issue a license for a transaction subject to section 6(j) controls until 30 days after the notification described in Section 6(j)(2) of the Export Administration Act is delivered to the committees of Congress specified in that section. License applications for all other items controlled under section 6(a) are also reviewed to determine whether section 6(j) applies.

(ii) ***Section 6(a) anti-terrorism controls*****.** Section 6(a) requirements apply to all exports and reexports regardless of the end user of items described in paragraph (a)(1) of this section.

(5) Exports and certain reexports to Iran are subject to a comprehensive embargo

administered by the Department of the Treasury's Office of Foreign Assets Control (OFAC). If you wish to export or reexport to Iran, the Government of Iran or any entity owned or controlled by that Government, you should review part 746 of the EAR and consult with OFAC. Please note that authorization from OFAC constitutes authorization under the EAR and no separate license or authorization from BIS is required.

(b) Licensing policy

(1) The Iran-Iraq Arms Non-Proliferation Act of October 23, 1992, requires BIS to deny licenses for items controlled to Iran for national security (section 5 of the 1979 EAA) or foreign policy reasons (section 6 of the 1979 EAA), absent contract sanctity or a Presidential waiver. License applications for which contract sanctity is established may be considered under policies in effect prior to the enactment of that Act. Otherwise, licenses for such items to Iran are subject to a general policy of denial.

(2) License applications for items controlled under section 6(a) of the EAA will also be reviewed to determine whether requirements of section 6(j) apply. Whenever the Secretary of State determines that an export or reexport could make a significant contribution to the military potential of Iran, including its military logistics capability, or could enhance Iran's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to the issuance of a license.

(c) Contract sanctity

Section 6(f) of the Export Administration Act requires that a report be delivered to Congress before foreign policy based export controls are imposed, expanded or extended. Consistent with section 6(p) of the Export Administration Act, certain exports or reexports in fulfillment of contracts entered into before such delivery of the report applicable to a particular license requirement or licensing policy may be subject to the license requirements and licensing policy that were in force before the report was delivered. License applicants who wish to have their application considered under such pre-existing requirements or policy must include evidence of the pre-existing contract with their license applications.

(d) U.S. controls

Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

§ 742.9 ANTI-TERRORISM: SYRIA

(a) License requirements

(1) If AT Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for export and reexport to Syria for anti-terrorism purposes.

(2) The Secretary of State has designated Syria as a country whose government has repeatedly provided support for acts of international terrorism.

(3) In support of U.S. foreign policy against terrorism, BIS maintains two types of anti-terrorism controls on the export and reexport to Syria of items described in Supplement No. 2 to part 742.

(i) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742, if destined to military, police, intelligence or other end-users in Syria, are controlled under section 6(j) of the Export Administration Act, as amended (EAA).

(ii) Items listed in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to other end-users in Syria, as well as items to all end-users listed in (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(44) of Supplement No. 2 to part 742, are controlled to Syria under section 6(a) of the EAA.

(b) Licensing policy

(1) Applications for export and reexport to all end-users in Syria of the following items will generally be denied:

(i) ***Items that are controlled for chemical and biological weapons proliferation reasons to any destination.*** These are items that contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) ***Military-related items controlled for national security reasons to any destination*****.** These are items that contain NS Column 1 in the Country Chart column of the "License Requirements" section in an ECCN on the CCL *and* are controlled by equipment or material entries ending in the number "18."

(iii) ***Items that are controlled for missile proliferation reasons to any destination*****.** These are items that have an MT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval. These are items controlled to any destination for national security and missile technology reasons and items controlled to Syria for anti-terrorism purposes. Such items contain an NS Column 1, NS Column 2, MT Column 1, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated into foreign made products, all aircraft-related items that require a license to Syria will be included as controlled U.S. content, except for ECCNs 6A998, 7A994, and 9A991.d, for purposes of such licensing requirements.

(v) ***Cryptographic, cryptoanalytic, and crypto-logic items controlled to any destination for national security reasons*****.** Such items contain an AT Column 1 and an NS Column 1 or NS Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(vi) Explosives detection equipment controlled under ECCN 2A983.

(vii) "Software" (ECCN 2D983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(viii) "Technology" (ECCN 2E983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(ix) Commercial charges and devices controlled under ECCN 1C992.

(x) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(xi) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.

(xii) Concealed object detection equipment controlled under ECCN 2A984.

(xiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

(2) Applications for export and reexport to Syria of all other items described in paragraph (a) of this section, and not described by paragraph (b)(1) of this section, will generally be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2), of this section, applications for Syria will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Syria of items where Syria was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date (or, where the contract sanctity date is December 16, 1986, prior to June 18, 1987).

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical items.

Note to paragraph (b) of this section: *Applicants who wish any of the factors described in paragraph (b) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the specifications and medical use of the equipment, or the date of export from the United States.*

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Syria, including its military logistics capability, or could enhance Syria's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license.

(c) Contract sanctity

Contract sanctity dates and related licensing policies for Syria are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) U.S. controls

Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

(e) Section 746.9 (Syria) of the EAR sets forth the export and reexport controls for Syria. Section 746.9 supersedes the provisions of paragraphs (a) through (d) of this section.

§ 742.10 ANTI-TERRORISM: SUDAN

(a) License Requirements

(1) If AT column 1 or AT column 2[1] of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for *export* to Sudan for anti-terrorism purposes.

(2) If AT column 1 or AT column 2 of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for *reexport* to Sudan for anti-terrorism purposes, *except* for ECCNs 2A994, 3A992.a, 5A991.g, 5A992, 6A991, 6A998, 7A994, 8A992.d, .e, .f, and .g, 9A990.a and .b, and 9A991.d and .e. In addition, items in these ECCNs are not counted as controlled U.S. content for the purpose of determining license requirements for U.S. parts, components or materials incorporated into foreign made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license.

(3) The Secretary of State has designated Sudan as a country whose government has repeatedly provided support for acts of international terrorism.

(4) In support of U.S. foreign policy against terrorism, BIS maintains anti-terrorism controls on the export and reexport to Sudan of items described in Supplement No. 2 to part 742.

(i) Items described in paragraph (c)(1) through (c)(5) of Supplement No. 2 to part 742 if destined to military, police, intelligence or other sensitive end-users in Sudan are controlled under section 6(j) of the Export Administration Act, as amended (EAA).

(ii) Items listed in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to other end-users in Sudan, as well as items to all end-users listed in (c)(6) through (c)(14) and (c)(16) through (c)(44) of Supplement No. 2 to part 742 are controlled to Sudan under section 6(a) of the EAA.

(b) Licensing policy

(1) Applications for export and reexport to all end-users in Sudan of the following items will generally be denied:

(i) ***Items that are controlled for chemical and biological weapons proliferation reasons to any destination***. These are items that contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) ***Military-related items controlled for national security reasons to any destination.*** These are items that contain NS Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL and are controlled by equipment or material entries ending in the number "18."

(iii) ***Items that are controlled for missile proliferation reasons to any destination***. These are items that contain a MT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv) ***All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components.*** These are items controlled to any destination for national security reasons and items controlled to Sudan for anti-terrorism reasons. Such items contain an NS Column 1, NS Column 2, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that,

[1] AT column 1 refers to items controlled to Iran, Sudan, and Syria for anti-terrorism purposes. AT column 2 refers to additional items controlled to Iran and Sudan for anti-terrorism purposes. In addition, items included in ECCNs 2A994, 2D994 and 2E994 are controlled to Iran for anti-terrorism purposes.

consistent with the general rule that applies to computing U.S. parts and components content incorporated in foreign made products, all aircraft-related items that require a license to Sudan will be included as controlled US content for purposes of such license requirements.

(v) ***Cryptographic, cryptoanalytic, and crypto-logic items controlled to any destination.*** These are items that contain an NS Column 1, NS Column 2, AT Column 1 or AT Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(vi) Explosives detection equipment controlled under ECCN 2A983.

(vii) "Software" (ECCN 2D983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(viii) "Technology" (ECCN 2E983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(ix) Commercial charges and devices controlled under ECCN 1C992.

(x) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.

(xi) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(xii) Concealed object detection equipment controlled under ECCN 2A984.

(xiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

(2) Applications for the export and reexport of all other items described in paragraph (a) of this section, and not described in paragraph (b)(1) of this section, will be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2) of this section, applications for Sudan will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Sudan of items where Sudan was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date.

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical items.

Note to paragraph (b) of this section: *Applicants who wish any of the factors described in paragraph (b)(4) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the specifications and medical use of the equipment, or the date of export from the United States.*

(4) License applications for items reviewed under 6(a) controls will also be reviewed to

determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Sudan, including its military logistics capability, or could enhance Sudan's ability to support acts of international terrorism, the appropriate committees of the Congress will be notified 30 days before issuance of a license to export or reexport such items.

(c) Contract sanctity

Contract sanctity dates and related licensing information for Sudan are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) U.S. controls

Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

§ 742.11 SPECIALLY DESIGNED IMPLEMENTS OF TORTURE, INCLUDING THUMBSCREWS, THUMBCUFFS, FINGERCUFFS, SPIKED BATONS, AND PARTS AND ACCESSORIES, N.E.S.

(a) License requirements

In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export any commodity controlled by ECCN 0A983 to all destinations including Canada.

(b) Licensing policy

Applications for such licenses will generally be denied to all destinations.

(c) Contract sanctity

The contract sanctity date is November 9, 1995. Contract sanctity will be a factor in considering only applications for export to the NATO countries, Japan, Australia, and New Zealand.

(d) U.S. Controls

In maintaining its controls on specially designed instruments of torture the United States considers international norms regarding human rights and the practices of other countries that control exports to promote the observance of human rights. However, these controls are not based on the decisions of any multinational export control regime and may differ from controls imposed by other countries.

§ 742.12 [RESERVED]

§ 742.13 COMMUNICATIONS INTERCEPTING DEVICES; SOFTWARE AND TECHNOLOGY FOR COMMUNICATIONS INTERCEPTING DEVICES

(a) License requirement

(1) In support of U.S. foreign policy to prohibit the export of items that may be used for the surreptitious interception of wire, oral, or electronic communications, a license is required for all destinations, including Canada, for ECCNs having an "SL" under the "Reason for Control" paragraph. These items include any electronic, mechanical, or other device primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCNs 5A001.f.1 and 5A980); and for related

"software" primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCN 5D001.c and 5D980.a); and "software" primarily useful for the "development", "production", or "use" of devices controlled under ECCNs 5A001.f.1 and 5A980 (ECCNs 5D001.a and 5D980.b); and for "technology" primarily useful for the "development", "production", or "use" of items controlled by ECCNs 5A001.f.1, 5D001.a (for 5A001.f.1), 5A980 and 5D980 (ECCNs 5E001.a and 5E980); and for "software" primarily useful to support such ECCN 5E001.a "development", "production", or "use" "technology" for 5A001.f.1 equipment and certain 5D001.a "software" (ECCN 5D001.b). These licensing requirements do not supersede the requirements contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2512). This license requirement is not reflected on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR).

(2) "Communications intercepting devices" are electronic, mechanical, or other devices that can be used for interception of wire, oral, or electronic communications if their design renders them primarily useful for surreptitious listening even though they may also have innocent uses. A device is not restricted merely because it is small or may be adapted to wiretapping or eavesdropping. Some examples of devices to which these restrictions apply are: the martini olive transmitter; the infinity transmitter; the spike mike; and the disguised microphone appearing as a wristwatch, cufflink, or cigarette pack; etc. The restrictions do not apply to devices such as the parabolic microphone or other directional microphones ordinarily used by broadcasters at sports events, since these devices are not primarily useful for surreptitious listening.

(b) Licensing policy

(1) License applications, except for those applications for which a license is required for both SL and AT reasons, will generally be approved for exports or reexports requiring a license for SL reasons when the exporter or reexporter is:

(i) A provider of wire or electronic communication services or an officer, agent, or employee of, or person under contract with such a provider, in the normal course of the business of providing that wire or electronic communication service; *or*

(ii) An officer, agent, or employee of, or a person under contract with, the United States, one of the 50 States, or a political subdivision thereof, when engaged in the normal course of government activities.

NOTE TO PARAGRAPH (b)(1): *For SL reasons, license applications will generally be denied to countries that are subject to controls for AT reasons.*

NOTE TO PARAGRAPH (b)(1)(i): *The normal course of the business of providing a wire or electronic communications service includes any activity which is a necessary incident to the rendition of the service or to the protection of the rights and property of the provider of that service.*

(2) Other license applications will generally be denied for exports or reexports requiring a license for SL reasons.

(c) Contract sanctity

Contract sanctity provisions are not available for license applications involving exports and reexports of communications interception devices.

(d) U.S. controls

Controls on items classified under ECCNs

5A980, 5D980, and 5E980 are maintained by the United States government for foreign policy purposes.

§ 742.14 SIGNIFICANT ITEMS: HOT SECTION TECHNOLOGY FOR THE DEVELOPMENT, PRODUCTION OR OVERHAUL OF COMMERCIAL AIRCRAFT ENGINES, COMPONENTS, AND SYSTEMS

(a) License requirement

Licenses are required for all destinations, except Canada, for ECCNs having an "SI" under the "Reason for Control" paragraph. These items include hot section technology for the development, production or overhaul of commercial aircraft engines controlled under ECCN 9E003.a.1 through a.8, .h, .i and .j, and related controls.

(b) Licensing policy

Pursuant to section 6 of the Export Administration Act of 1979, as amended, foreign policy controls apply to technology required for the development, production or overhaul of commercial aircraft engines controlled by ECCN 9E003a.1 through a.8, .h, .i, and .j, and related controls. These controls supplement the national security controls that apply to these items. Applications for export and reexport to all destinations will be reviewed on a case-by-case basis to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. The following factors are among those that will be considered to determine what action will be taken on license applications:

(1) The country of destination;

(2) The ultimate end-user(s);

(3) The technology involved;

(4) The specific nature of the end-use(s); and

(5) The types of assurance against unauthorized use or diversion that are given in a particular case.

(c) Contract sanctity

Contract sanctity provisions are not available for license applications reviewed under this §742.14.

(d) [RESERVED]

§ 742.15 ENCRYPTION ITEMS

Encryption items can be used to maintain the secrecy of information, and thereby may be used by persons abroad to harm U.S. national security, foreign policy and law enforcement interests. The United States has a critical interest in ensuring that important and sensitive information of the public and private sector is protected. Consistent with our international obligations as a member of the Wassenaar Arrangement, the United States has a responsibility to maintain control over the export and reexport of encryption items. As the President indicated in Executive Order 13026 and in his Memorandum of November 15, 1996, exports and reexports of encryption software, like exports and reexports of encryption hardware, are controlled because of this functional capacity to encrypt information, and not because of any informational or theoretical value that such software may reflect, contain, or represent, or that its export or reexport may convey to others abroad. For this reason, export controls on encryption software are distinguished from controls on other software regulated under the EAR.

(a) Licensing requirements and policy

(1) Licensing requirements. A license is required to export or reexport encryption items ("EI") classified under ECCN 5A002.a.1, .a.2, .a.5, .a.6, .a.9, and .b; 5D002.a, .c.1 or .d for equipment and "software" controlled for EI reasons in ECCNs 5A002 or 5D002; or 5E002 for "technology" for the "development," "production," or "use" of commodities or "software" controlled for EI reasons in ECCNs 5A002 or 5D002 to all destinations, except Canada. Refer to part 740 of the EAR, for license exceptions that apply to certain encryption items, and to § 772.1 of the EAR for definitions of encryption items and terms. Most encryption items may be exported under the provisions of License Exception ENC set forth in §740.17 of the EAR. Before submitting a license application, please review License Exception ENC to determine whether this license exception is available for your item or transaction. For exports and reexports of encryption items that are not eligible for a license exception, exporters must submit an application to obtain authorization under a license or an Encryption Licensing Arrangement.

(2) Licensing policy. Applications will be reviewed on a case-by-case basis by BIS, in conjunction with other agencies, to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. Encryption Licensing Arrangements (ELAs) may be authorized for exports and reexports of unlimited quantities of encryption commodities and software to national or federal government bureaucratic agencies for civil use, and to state, provincial or local governments, in all destinations, except countries listed in Country Group E:1 of Supplement No. 1 to part 740. ELAs are valid for four years and may require post-export reporting or pre-shipment notification. Applicants seeking authorization for Encryption Licensing Arrangements must specify the sales territory and class of end-user on their license applications.

Note to paragraph (a): *Pursuant to Note 3 to Category 5 Part 2 of the Commerce Control List in Supplement No. 1 to Part 774, mass market encryption commodities and software may be released from "EI" and "NS" controls by submitting an encryption registration in accord with § 742.15(b) of the EAR. Once an encryption registration has been submitted to BIS and accepted in SNAP-R as indicated by the issuance of an Encryption Registration Number (ERN), then the commodities and software are classified under ECCNs 5A992 and 5D992 respectively and are no longer subject to "EI" and "NS" controls.*

(b) Encryption registration required, with classification request or self-classification report, for mass market encryption commodities, software and components with encryption exceeding 64 bits

To be eligible for export and reexport under this paragraph (b), encryption commodities, software and components must qualify for mass market treatment under the criteria in the Cryptography Note (Note 3) of Category 5, Part 2 ("Information Security"), of the Commerce Control List (Supplement No. 1 to part 774 of the EAR), and employ a key length greater than 64 bits for the symmetric algorithm (or, for commodities and software not implementing any symmetric algorithms, employing a key length greater than 768 bits for asymmetric algorithms or greater than 128 bits for elliptic curve algorithms). Encryption items that are described in §§ 740.17(b)(2) or (b)(3)(iii) of the EAR do not qualify for mass market treatment. This paragraph (b) does not authorize export or reexport to, or provision of any service in any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR. Exports and reexports authorized under paragraphs (b)(1) and (b)(3) of this section (including of mass market encryption software that would be considered publicly available under §734.3(b)(3) of the EAR) must be

supported by an encryption registration in accordance with paragraph (b)(7) of this section and the specific instructions of paragraph (r)(1) of Supplement No. 2 to part 748 of the EAR. For items self-classified under paragraph (b)(1) of this section from June 25, 2010 through August 24, 2010, and for requests for classification under paragraph (b)(3) of this section submitted from June 25, 2010 through August 24, 2010, exporters have until August 24, 2010 to submit their encryption registrations. In addition, paragraphs (b)(1) and (b)(3) of this section set forth requirements pertaining to the classification of mass market encryption commodities and software. See paragraph (d) of this section for grandfathering provisions applicable to certain encryption items reviewed and classified by BIS under this section prior to June 25, 2010. All classification requests, registrations, and reports submitted to BIS pursuant to this section for encryption items will be reviewed by the ENC Encryption Request Coordinator, Ft. Meade, MD. Only mass market encryption authorizations under this paragraph (b) to a company that has fulfilled the requirements of encryption registration (such as the producer of the item) authorize the export and reexport of the company's encryption items by all persons, wherever located, under this section. When an exporter or reexporter relies on the producer's self-classification (pursuant to the producer's encryption registration) or CCATS for a mass market encryption item, it is not required to submit an encryption registration, classification request or self-classification report.

Note to introductory text of paragraph (b)*: Mass market encryption software that would be considered publicly available under §734.3(b)(3) of the EAR, and is authorized for export and reexport under this paragraph (b), remains subject to the EAR until the encryption registration and all applicable classification or self-classification requirements set forth in this section are fulfilled.*

(1) Immediate mass market authorization. Once an encryption registration is submitted to BIS in accordance with paragraph (b)(7) of this section and an Encryption Registration Number (ERN) has been issued, this paragraph (b)(1) authorizes the exports or reexports of the associated mass market encryption commodities and software classified under ECCNs 5A992 or 5D992 using the symbol "NLR", except any such commodities, software or components described in (b)(3) of this section, subject to submission a self-classification report in accordance with paragraph (c) of this section.

(2) [RESERVED]

(3) Classification request required for specified mass market commodities, software and components. Thirty-days (30-days) after the submission of a classification request to BIS in accordance with paragraph (b)(7) of this section, this paragraph (b)(3) authorizes exports and reexports of the mass market items submitted for classification, using the symbol "NLR", provided the items qualify for mass market treatment as described in paragraph (b) of this section and are classified by BIS under ECCNs 5A992 or 5D992:

Note to introductory text of paragraph (b)(3)*: Once a mass market classification request is accepted in SNAP-R, you may export and reexport the encryption commodity or software under License Exception ENC as ECCN 5A002 or 5D002, whichever is applicable, to any end-user located or headquartered in a country listed in Supplement No. 3 to part 740 as authorized by § 740.17(b) of the EAR, while the mass market classification request is pending review with BIS.*

(i) Specified mass market encryption components as follows:

(A) Chips, chipsets, electronic assemblies and field programmable logic devices;

(B) Cryptographic libraries, modules, development kits and toolkits, including for operating systems and cryptographic service providers (CSPs);

(C) Application-specific hardware or software development kits implementing cryptography.

(ii) Mass market encryption commodities, software and components that provide or perform "non-standard cryptography" as defined in part 772 of the EAR.

(iii) [RESERVED]

(iv) ***Mass market cryptographic enabling commodities and software.*** Commodities and software and components that themselves qualify for mass market treatment, and activate or enable cryptographic functionality in mass market encryption products which would otherwise remain disabled, where the product or cryptographic functionality is not otherwise described in paragraph (b)(3)(i) of this section.

(4) Exclusions from mass market classification request, encryption registration and self-classification reporting requirements. The following commodities and software do not require a submission of an encryption registration, classification request or self-classification report to BIS for export or reexport as mass market products:

(i) ***Short range wireless encryption functions.*** Commodities and software that are not otherwise controlled in Category 5, but are nonetheless classified under ECCN 5A992 or 5D992 only because they incorporate components or software that provide short range wireless encryption functions (e.g., with a nominal operating range not exceeding 100 meters according to the manufacturers specifications, designed to comply with the Institute of Electrical and Electronic Engineers (IEEE) 802.11 wireless LAN standard or the IEEE 802.15.1 standard).

Note to paragraph (b)(4)(i): *An example of what this paragraph authorizes for export without classification, registration or self-classification reporting is a laptop computer that without encryption would be classified under ECCN 4A994, and the Category 5, Part 2-controlled components of the laptop only implement short-range wireless encryption functionality. On the other hand, this paragraph (b)(4)(i) does not apply to any commodities or software that would still be classified under an ECCN in Category 5 even if the short-range wireless encryption functionality were removed. For example, certain access points, gateways and bridges are classified under ECCN 5A991 without encryption functionality, and components for mobile communication equipment are classified under ECCN 5A991.g without encryption functionality. Such items, when implementing cryptographic functionality controlled by Category 5, Part 2 are not excluded from encryption classification, registration or self-classification reporting by this paragraph.*

(ii) ***Foreign products developed with or incorporating U.S.-origin encryption source code, components, or toolkits***. Foreign products developed with or incorporating U.S. origin encryption source code, components or toolkits that are subject to the EAR, provided that the U.S. origin encryption items have previously been classified or registered and authorized by BIS and the cryptographic functionality has not been changed. Such products include foreign developed products that are designed to operate with U.S. products through a cryptographic interface.

(5) [RESERVED]

(6) Examples of mass market encryption products. Subject to the requirements of the

Cryptography Note (Note 3) in Category 5, Part 2, of the Commerce Control List, mass market encryption products include, but are not limited to, general purpose operating systems and desktop applications (e.g., e-mail, browsers, games, word processing, database, financial applications or utilities) designed for use with computers classified as ECCN 4A994 or designated as EAR99, laptops, or hand-held devices; commodities and software for client Internet appliances and client wireless LAN devices; home use networking commodities and software (e.g., personal firewalls, cable modems for personal computers, and consumer set top boxes); and portable or mobile civil telecommunications commodities and software (e.g., personal data assistants (PDAs), radios, or cellular products).

(7) Mass market encryption registration and classification request procedures.

(i) ***Submission requirements and instructions.*** To submit an encryption registration or classification request to BIS for certain mass market encryption items under this paragraph (b), you must submit an application to BIS in accordance with the procedures described in §§ 748.1 and 748.3 of the EAR and the instructions in paragraph (r) of Supplement No. 2 to part 748 "Unique Application and Submission Requirements", along with other required information as follows:

(A) ***Encryption registration in support of mass market encryption classification requests and self-classification reports.*** You must submit the applicable information as described in Supplement No. 5 to this part and follow the specific instructions of paragraph (r)(1) of Supplement No. 2 to part 748 of the EAR, if any of the following apply:

(1) This is your first time submitting an encryption classification request under paragraph (b)(3) of this section since August 24, 2010;

(2) You are making a mass market encryption product eligible for export and reexport (including as defined for encryption software in § 734.2(b)(9) of the EAR) under paragraph (b)(1) of this section for the first time since August 24, 2010; or

(3) If you have not otherwise provided BIS the information described in Supplement No. 5 to this part during the current calendar year and your answers to the questions in Supplement No. 5 to this part have changed since the last time you provided answers to the questions.

(B) ***Technical information submission requirements.*** In addition to the registration requirements of paragraph (b)(7)(i)(A) of this section, for all submissions of encryption classification requests for mass market products described under paragraph (b)(3) of this section, you must also provide BIS the applicable information described in paragraphs (a) through (d) of Supplement No. 6 to this part (Technical Questionnaire for Encryption Items). For mass market products authorized after the submission of an encryption registration under paragraph (b)(1) of this section, you may be required to provide BIS this information described in Supplement No. 6 to this part on an as-needed basis, upon request by BIS.

(C) ***Changes in encryption functionality following a previous classification.*** A new mass market encryption classification request (under paragraph (b)(3) of this section) or self-classification (under paragraph (b)(1) of this section) is required if a change is made to the cryptographic functionality (e.g., algorithms) or other technical characteristics affecting mass market eligibility (e.g., performance enhancements to provide network infrastructure services, or customizations to end user specifications) of the originally classified

product. However, a new product classification request or self-classification is not required when a change involves: the subsequent bundling, patches, upgrades or releases of a product; name changes; or changes to a previously reviewed encryption product where the change is limited to updates of encryption software components where the product is otherwise unchanged.

(ii) ***Action by BIS.***

(**A**) ***Encryption registrations for mass market encryption items.*** Upon submission to BIS of an encryption registration in accordance with paragraph (b)(7)(i) of this section and acceptance of the application by SNAP-R, BIS will issue the Encryption Registration Number (ERN) via SNAP-R, which will constitute authorization under this paragraph (b). Immediately upon receiving your ERN from BIS, you may export and reexport mass market encryption products described in paragraph (b)(1) of this section using the symbol "NLR".

(B) ***For mass market items requiring classification by BIS under paragraph (b)(3) of this section.***

(1) For mass market encryption classifications that require a thirty (30)-day waiting period, if BIS has not, within thirty (30) days from acceptance in SNAP-R of your complete classification request, informed you that your item is not authorized as a mass market item, you may export and reexport under the applicable provisions of this paragraph (b). If, during the course of its review, BIS determines that your encryption items do not qualify for mass market treatment under the EAR, or are otherwise classified under ECCN 5A002, 5B002, 5D002 or 5E002, BIS will notify you and will review your items for eligibility under License Exception ENC (see § 740.17 of the EAR for review and reporting requirements for encryption items under License Exception ENC).

(2) Upon completion of its review, BIS will issue a Commodity Classification Automated Tracking System (CCATS) to you.

(3) Hold Without Action (HWA) for mass market classification requests. BIS may hold your mass market classification request without action if necessary to obtain additional information or for any other reason necessary to ensure an accurate classification. Time on such "hold without action" status shall not be counted towards fulfilling the thirty-day (30-day) processing period specified in this paragraph.

(C) BIS may require you to supply additional relevant technical information about your encryption item(s) or information that pertains to their eligibility as mass market products at any time, before or after the expiration of the thirty-day (30-day) processing period specified in this paragraph and in paragraph (b)(3) of this section, or after any registrations as required in paragraph (b)(1) of this section. If you do not supply such information within 14 days after receiving a request from BIS, BIS may return your classification request without action or otherwise suspend or revoke your eligibility to use mass market authorization for that item. At your request, BIS may grant you up to an additional 14 days to provide the requested information. Any request for such an additional number of days must be made prior to the date by which the information was otherwise due to be provided to BIS and may be approved if BIS concludes that additional time is necessary.

(c) Self-classification reporting for certain encryption commodities, software and components

This paragraph (c) sets forth requirements for self-classification reporting to BIS and the ENC Encryption Request Coordinator (Ft. Meade, MD) of encryption commodities, software and components exported or reexported pursuant to

encryption registration under §§ 740.17(b)(1) or 742.15(b)(1) of the EAR. Reporting is required, effective June 25, 2010.

(1) When to report. Your self-classification report for applicable encryption commodities, software and components exported or reexported during a calendar year (January 1 through December 31) must be received by BIS and the ENC Encryption Request Coordinator no later than February 1 the following year.

(2) How to report. Encryption self-classification reports must be sent to BIS and the ENC Encryption Request Coordinator via e-mail or regular mail. In your submission, specify the export timeframe that your report spans and identify points of contact to whom questions or other inquiries pertaining to the report should be directed. Follow these instructions for your submissions:

(i) ***Submissions via e-mail.*** Submit your encryption self-classification report electronically to BIS at crypt-supp8@bis.doc.gov and to the ENC Encryption Request Coordinator at enc@nsa.gov, as an attachment to an e-mail. Identify your e-mail with subject "Self-classification report for ERN R######", using your most recent ERN in the subject line (so as to correspond your encryption self-classification report to your most recent encryption registration ERN).

(ii) ***Submissions on disks and CDs*****.** The self-classification report may be sent to the following addresses, in lieu of e-mail:

(A) Department of Commerce, Bureau of Industry and Security, Office of National Security and Technology Transfer Controls, 14th Street and Pennsylvania Ave., NW, Room 2099B, Washington, DC 20230, Attn: Encryption Reports, and

(B) Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Ft. Meade, MD 20755-6000.

(3) Information to report. Your encryption self-classification report must include the information described in paragraph (a) of Supplement No. 8 to this part for each applicable encryption commodity, software and component exported or reexported pursuant to an encryption registration under §§ 740.17(b)(1) or 742.15(b)(1) of the EAR. If no information has changed since the previously submitted report, you must either send an e-mail stating that nothing has changed since the previous report or submit a copy of the previously submitted report.

(4) File format requirements. The information described in paragraph (a) of Supplement No. 8 to this part must be provided to BIS and the ENC Encryption Request Coordinator in tabular or spreadsheet form, as an electronic file in comma separated values format (.csv) adhering to the specifications set forth in paragraph (b) of Supplement No. 8 to this part.

(d) Grandfathering

(1) For mass market encryption commodities, software and components described in (or otherwise meeting the specifications of) paragraph (b) of this section effective June 25, 2010, such items reviewed and classified by BIS as mass market products prior to June 25, 2010 are authorized for export and reexport under paragraph (b) of this section using the CCATS previously issued by BIS, without any encryption registration (i.e., the information described in Supplement No. 5 to this part), new classification by BIS, or self-classification reporting (i.e., the information described in Supplement No. 8 to this part), provided the cryptographic functionality of the item has not changed. See paragraph (b)(7)(i)(C) of this section regarding changes in encryption functionality following a previous classification.

(2) If you have components that meet paragraph (b) of the Cryptography Note 3 in Category 5 Part 2 of the Commerce Control List in Supplement No. 1 to part 774 and the components have previously been classified under ECCN 5X002 pursuant to § 740.17(b)(3) or self-classified under § 740.17(b)(1) after June 25, 2010, a new classification request is not required to make it eligible for paragraph (b) to Note 3 under § 742.15(b)(3), i.e., 5X992, if you include these components in your self-classification report submitted to BIS and the ENC Encryption Request Coordinator no later than February 1 following the calendar year in which you first export or reexport the reclassified components.

§ 742.16 [RESERVED]

§ 742.17 EXPORTS OF FIREARMS TO OAS MEMBER COUNTRIES

(a) License requirements

BIS maintains a licensing system for the export of shotguns and related items to all OAS member countries. This action is based on the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Munitions (OAS Model Regulations) which were developed to assist OAS member countries to implement the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (Firearms Convention) [2]. Items subject to these controls are identified by "FC Column 1" in the "License Requirements" section of their Export Control Classification Number (ECCN) on the Commerce Control List (CCL). If "FC Column 1" of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated for a particular country, a license is required for export to that destination. Licenses will generally be issued on an Import Certificate or equivalent official document, satisfactory to BIS, issued by the government of the importing country is also required for the export of such items to OAS member countries.

(b) Licensing policy

Applications supported by an Import Certificate or equivalent official document issued by the government of the importing country for such items will generally be approved, except there is a policy of denial for applications to export items linked to such activities as drug trafficking, terrorism, and transnational organized crime.

(c) Contract sanctity

Contract sanctity provisions are not available for license applications under this §742.17.

(d) OAS Model Regulations

The OAS Model Regulations on which regulations are based are designed by OAS member countries to combat illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials in North and South America because of their links to such activities as drug trafficking, terrorism, and transnational organized crime.

(e) OAS member countries to which firearms controls under this section apply

The OAS member countries include: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the

[2] Status of Convention as of April 13, 1999 had not entered into force.

Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay, and Venezuela.

(f) Items/Commodities

Items requiring a license under this section are ECCNs 0A984 (shotguns with a barrel length 18 inches or over and related parts, and buckshot shotgun shells), 0A986 (shotgun shells, and related parts) and 0A987 (optical sighting devices). (*See* Supplement No. 1 to Part 774 of the EAR.)

(g) Validity period for licenses

Although licenses generally will be valid for a period of two years, your ability to ship items that require an Import Certificate or equivalent official document under this section may be affected by the validity of the Import Certificate or equivalent official document (*see* §748.14(f) of the EAR).

§ 742.18 CHEMICAL WEAPONS CONVENTION (CWC OR CONVENTION)

States that are parties to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), undertake never to develop, produce, acquire, stockpile, transfer, or use chemical weapons. As a State Party to the Convention, the United States is subjecting certain toxic chemicals and their precursors listed in Schedules within the Convention to trade restrictions. Trade restrictions include: a prohibition on the export of Schedule 1 chemicals to States not Party to the CWC; a prohibition on the reexport of Schedule 1 chemicals to all destinations (both States Parties to the CWC and States not Party to the CWC); license requirements for the export of Schedule 1 chemicals to all States Parties; a prohibition on the export of Schedule 2 chemicals to States not Party to the CWC; and an End-Use Certificate requirement for exports of Schedule 3 chemicals to States not Party to the CWC. Exports of CWC chemicals that do not require a license for CW reasons (e.g., exports and reexports of Schedule 2 and Schedule 3 chemicals to States Parties to the CWC) may require a license for other reasons set forth in the EAR. (See, in particular, the license requirements in §742.2 of the EAR that apply to exports and reexports of precursor chemicals controlled by ECCN 1C350, for CB reasons. Also note the end-use and end-user restrictions in part 744 of the EAR and the restrictions that apply to embargoed countries in part 746 of the EAR.)

(a) License requirements

(1) Schedule 1 chemicals and mixtures controlled under ECCN 1C351. A license is required for CW reasons to export or reexport Schedule 1 chemicals controlled under ECCN 1C351.d.11 or d.12 to all destinations including Canada. CW applies to 1C351.d.11 for ricin in the form of Ricinus Communis $\text{Agglutinin}_{\text{II}}$ (RCA_{II}), which is also known as ricin D or Ricinus Communis $\text{Lectin}_{\text{III}}$ (RCL_{III}), and Ricinus Communis $\text{Lectin}_{\text{IV}}$ (RCL_{IV}), which is also known as ricin E. CW applies to 1C351.d.12 for saxitoxin identified by C.A.S. #35523-89-8. (Note that the advance notification procedures and annual reporting requirements described in §745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

(2) Schedule 2 and Schedule 3 chemicals and mixtures controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C395.

(i) ***States Parties to the CWC.*** Neither a license nor an End-Use Certificate is required for CW reasons to export or reexport Schedule 2 or 3 chemicals and mixtures controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C395 to States

Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR).

(ii) ***States not Party to the CWC.***

(A) *Schedule 2 chemicals*. A license is required for CW reasons to export or reexport Schedule 2 chemicals and mixtures controlled under ECCN 1C350.b, ECCN 1C355.a, or ECCN 1C395 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

(B) ***Schedule 3 chemicals.***

(*1*) ***Exports.*** A license is required for CW reasons to export Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR), *unless* the exporter obtains from the consignee an End-Use Certificate (issued by the government of the importing country) prior to exporting the Schedule 3 chemicals and submits it to BIS in accordance with the procedures described in §745.2 of the EAR. Note, however, that obtaining an End-Use Certificate does not relieve the exporter from the responsibility of complying with other license requirements set forth elsewhere in the EAR.

(*2*) ***Reexports.***

(i) Reexports from States Parties to the CWC. Neither a license nor an End-Use Certificate is required for CW reasons to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) to States not Party to the CWC. However, a license may be required for other reasons set forth elsewhere in the EAR. In addition, reexports of Schedule 3 chemicals may be subject to an End-Use Certificate requirement by governments of other countries when the chemicals are destined for States not Party to the CWC.

(ii) Reexports from States not Party to the CWC. A license is required for CW reasons to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from a State not Party to the CWC (a destination *not* listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC.

(C) ***Technology controlled under ECCN 1E355.*** A license is required for CW reasons to export or reexport technology controlled under ECCN 1E355 to all States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR), except for Israel and Taiwan.

(b) Licensing policy

(1) Schedule 1 chemicals and mixtures.

(i) ***Exports to States Parties to the CWC.*** Applications to export Schedule 1 chemicals controlled under ECCN 1C351.d.11 or .d.12 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, *unless* all of the following conditions are met:

(A) The chemicals are destined only for purposes not prohibited under the CWC (i.e., research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The Schedule 1 chemicals were not previously imported into the United States (this does not apply to Schedule 1 chemicals imported into the United States prior to April 29, 1997, or

imported into the United States directly from the same State Party to which they now are to be returned, i.e., exported); *and*

(D) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time is equal to or less than one metric ton *and* receipt of the proposed export will *not* cause the country of destination to acquire or to have acquired one metric ton or more of Schedule 1 chemicals in any calendar year.

(ii) ***Exports to States not Party to the CWC***. Applications to export Schedule 1 chemicals controlled under ECCN 1C351.d.11 or .d.12 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(iii) ***Reexports*.** Applications to reexport Schedule 1 chemicals controlled under ECCN 1C351.d.11 or .d.12 generally will be denied to all destinations (including both States Parties to the CWC and States not Party to the CWC).

(2) Schedule 2 chemicals and mixtures. Applications to export or reexport Schedule 2 chemicals and mixtures controlled under ECCN 1C350.b, ECCN 1C355.a, or ECCN 1C395 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(3) Schedule 3 chemicals and mixtures.

(i) Exports. Applications to export Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied.

(ii) Reexports from States not Party to the CWC. Applications to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from a State not Party to the CWC (a destination *not* listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC generally will be denied.

(4) Technology controlled under ECCN 1E355. Exports and reexports of technology controlled under ECCN 1E355 will be reviewed on a case-by-case basis.

(c) Contract sanctity

Contract sanctity provisions are not available for license applications reviewed under this section.

§ 742.19 ANTI-TERRORISM: NORTH KOREA

(a) License requirements

(1) All items on the Commerce Control List (CCL) (i.e., with a designation other than EAR99) that are controlled for anti-terrorism reasons require a license for export or reexport to North Korea. This includes all items on the CCL containing AT column 1 or AT column 2 in the Country Chart column of the License requirements section of an ECCN; and ECCNs 0A986, 0A988, 0A999, 0B986, 0B999, 0D999, 1A999, 1B999, 1C995, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999. See also part 746 of the EAR.

(2) The Secretary of State has designated North Korea as a country whose Government has repeatedly provided support for acts of international terrorism.

(3) In support of U.S. foreign policy on

terrorism-supporting countries, BIS maintains two types of anti-terrorism controls on the export and reexport of items described in Supplement 2 to part 742.

(i) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 are controlled under section 6(j) of the Export Administration Act, as amended (EAA), if destined to military, police, intelligence or other sensitive end-users.

(ii) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to non-sensitive end-users, as well as items described in paragraph (c)(6) through (c)(45) to all end-users, are controlled to North Korea under section 6(a) of the EAA. License applications for items reviewed under section 6(a) controls will also be reviewed to determine the applicability of section 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of North Korea, including its military logistics capability, or could enhance North Korea's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license. (See Supplement No. 2 to part 742 for more information on items controlled under sections 6(a) and 6(j) of the EAA and §750.6 of the EAR for procedures for processing license applications for items controlled under EAA section 6(j).)

(b) Licensing policy

(1) Applications for export and reexport to all end-users in North Korea of the following items will generally be denied:

(i) ***Items controlled for chemical and biological weapons proliferation reasons to any destination.*** These items contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) Items controlled for missile proliferation reasons to any destination. These items have an MT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iii) ***Items controlled for nuclear weapons proliferation reasons to any destination*****.** These items contain NP Column 1 or NP Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv*) Items controlled for national security reasons to any destination***.** These items contain NS Column 1 or NS Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(v) ***Military-related items controlled for national security reasons to any destination*****.** These items contain NS Column 1 in the Country Chart column of the "License Requirements" section in an ECCN on the CCL *and* are controlled by equipment or material entries ending in the number "18."

(vi) ***All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components***. Such items contain an NS Column 1, NS Column 2, MT Column 1, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. (Not including parts and components for safety-of-flight, which will be reviewed on a case-by-case basis in accordance with paragraph (b)(2) of this section.)

(vii) ***Cryptographic, cryptoanalytic, and crypto-logic items controlled any destination*****.** These are items that contain an NS Column 1, NS Column 2, AT Column 1 or AT Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(viii) Submersible systems controlled under

ECCN 8A992.

(ix) Scuba gear and related equipment controlled under ECCN 8A992.

(x) Pressurized aircraft breathing equipment controlled under ECCN 9A991.

(xi) Explosives detection equipment controlled under ECCN 2A983.

(xii) "Software" (ECCN 2D983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(xiii) "Technology" (ECCN 2E983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(xiv) Commercial charges and devices controlled under ECCN 1C992.

(xv) Computer numerically controlled machine tools controlled under ECCN 2B991.

(xvi) Aircraft skin and spar milling machines controlled under ECCN 2B991.

(xvii) Semiconductor manufacturing equipment controlled under ECCN 3B991.

(xviii) Digital computers with an Adjusted Peak Performance (APP) exceeding 0.0004 Weighted TeraFLOPS (WT).

(xix) Microprocessors with a processing speed of 0.5 GFLOPS or above.

(xx) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(xxi) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 Chemicals controlled under ECCN 1E355.

(xxii) Concealed object detection equipment controlled under ECCN 2A984.

(xxiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xxiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

(2) Applications for export and reexport to North Korea of all other items described in paragraph (a) of this section, and not described by paragraph (b)(1) of this section, will generally be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. Applications to export or reexport humanitarian items intended for the benefit of the North Korean people; items in support of United Nations humanitarian efforts; and agricultural commodities and medical devices will generally be approved.

(3) Applications for export and reexport to North Korea of items described in paragraphs (c)(12), (c)(24), (c)(34), (c)(37), (c)(38), and (c)(45) of Supplement No. 2 to part 742 will generally be denied if the export or reexport is destined to nuclear end-users or nuclear end-uses. Applications for non-nuclear end-users or for non-nuclear end-uses, excluding items described in (c)(24)(iv)(A) of Supplement No. 2 to part 742, will be considered on a case-by-case basis.

(4) License applications for items reviewed under section 6(a) controls will also be reviewed to determine the applicability of section 6(j)

controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of North Korea, including its military logistics capability, or could enhance North Korea's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license.

SUPPLEMENT NO. 1 TO PART 742 - NONPROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

NOTE: *Exports and reexports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanctity date. The contract sanctity dates set forth in this Supplement are for the guidance of exporters. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If you believe that a specific contract sanctity date is applicable to your transaction, you should include all relevant information with your license application.*

(1) The contract sanctity date for exports to Iran or Syria of dimethyl methylphosphonate, phosphorous oxychloride, thiodiglycol, dimethylamine hydrochloride, dimethylamine, ethylene chlorohydrin (2-chloroethanol), and potassium fluoride is April 28, 1986.

(2) The contract sanctity date for exports to Iran or Syria of dimethyl phosphite (dimethyl hydrogen phosphite), methyl phosphonyldichloride, 3-quinuclidinol, N,N-diisopropylamino-ethane-2-thiol, N,N-diisopropylaminoethyl-2-chloride, 3-hydroxy-1-methylpiperidine, trimethyl phosphite, phosphorous trichloride, and thionyl chloride is July 6, 1987.

(3) The contract sanctity date for exports to Iran or Syria of items in ECCNs 1C351, 1C352, 1C353 and 1C354 is February 22, 1989.

(4) The contract sanctity date for exports to Iran of dimethyl methylphosphonate, phosphorus oxychloride, and thiodiglycol is February 22, 1989.

(5) The contract sanctity date for exports to Iran or Syria of potassium hydrogen fluoride, ammonium hydrogen fluoride, sodium fluoride, sodium bifluoride, phosphorus pentasulfide, sodium cyanide, triethanolamine, diisopropylamine, sodium sulfide, and N,N-diethylethanolamine is December 12, 1989.

(6) The contract sanctity date for exports to all destinations (except Iran or Syria) of phosphorus trichloride, trimethyl phosphite, and thionyl chloride is December 12, 1989. For exports to Iran or Syria, paragraph (2) of this Supplement applies.

(7) The contract sanctity date for exports to all destinations (except Iran or Syria) of 2-chloroethanol and triethanolamine is January 15, 1991. For exports of 2-chloroethanol to Iran or Syria, paragraph (1) of this Supplement applies. For exports of triethanolamine to Iran or Syria, paragraph (5) of this Supplement applies.

(8) The contract sanctity date for exports to all destinations (except Iran or Syria) of chemicals controlled by ECCN 1C350 is March 7, 1991, except for applications to export the following chemicals: 2-chloroethanol, dimethyl methylphosphonate, dimethyl phosphite (dimethyl hydrogen phosphite), phosphorus oxychloride, phosphorous trichloride, thiodiglycol, thionyl chloride triethanolamine, and trimethyl phosphite. (See also paragraphs (6) and (7) of this Supplement.) For exports to Iran or Syria, see paragraphs (1) through (6) of this Supplement.

(9) The contract sanctity date for exports and reexports of the following commodities and technical data is March 7, 1991:

(i) Equipment (for producing chemical

weapon precursors and chemical warfare agents) described in ECCNs 2B350 and 2B351;

(ii) Equipment and materials (for producing biological agents) described in ECCNs 1C351, 1C352, 1C353, 1C354, and 2B352; and

(iii) Technology (for the development, production, and use of equipment described in ECCNs 1C351, 1C352, 1C353, 1C354, 2B350, 2B351, and 2B352) described in ECCNs 2E001, 2E002, and 2E301.

(10) The contract sanctity date for license applications subject to §742.2(b)(3) of this part is March 7, 1991.

(11) The contract sanctity date for reexports of chemicals controlled under ECCN 1C350 is March 7, 1991, except that the contract sanctity date for reexports of these chemicals to Iran or Syria is December 12, 1989.

(12) The contract sanctity date for reexports of human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens controlled by ECCNs 1C351, 1C352, 1C353 and 1C354 is March 7, 1991.

SUPPLEMENT NO. 2 TO PART 742 - ANTI-TERRORISM CONTROLS: NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

***NOTE**: Exports and reexports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanctity date. The contract sanctity dates set forth in this Supplement are for the guidance of exporters. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If you believe that a specific contract sanctity date is applicable to your transaction, you should include all relevant information with your license application. BIS will determine any applicable contract sanctity date at the time an application with relevant supporting documents is submitted.*

(a) *Terrorist-supporting countries*

The Secretary of State has designated Cuba, North Korea, Sudan and Syria as countries whose governments have repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act (EAA).

(b) *Items controlled under EAA sections 6(j) and 6(a)*

Whenever the Secretary of State determines that an export or reexport to any of these countries could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism, the item is subject to mandatory control under EAA section 6(j) and the Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before a license for such an item may be issued.

(1) On December 28, 1993, the Secretary of State determined that the export to Cuba, North Korea, Sudan, or Syria of items described in paragraphs (c)(1) through (c)(5) of this Supplement, if destined to military, police, intelligence or other sensitive end-users, are controlled under EAA section 6(j). Therefore, the 30-day advance Congressional notification requirement applies to the export or reexport of these items to sensitive end-users in any of these countries.

(2) License applications for items controlled to designated terrorist-supporting countries under EAA section 6(a) will also be reviewed to determine whether the Congressional notification requirements of EAA section 6(j) apply.

(3) Items controlled for anti-terrorism reasons under section 6(a) to North Korea, Sudan and Syria are:

(i) Items described in paragraphs (c)(1) through (c)(5) to non-sensitive end-users, and

(ii) The following items to all end-users: for North Korea, items in paragraph (c)(6) through (c)(45) of this Supplement; for Sudan, items in paragraphs (c)(6) through (c)(14) and (c)(16) through (c)(44) of this Supplement; and for Syria, items in paragraphs (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(44) of this Supplement.

(c) The license requirements and licensing policies for items controlled for anti-terrorism reasons to Syria, Sudan, and North Korea are generally described in §§ 742.9, 742.10, and 742.19 of this part, respectively. This Supplement provides guidance on licensing

policies for North Korea, Syria, and Sudan and related contract sanctity dates that may be available for transactions benefiting from pre-existing contracts involving Syria, and Sudan.

(1) All items subject to national security controls.

(i) [RESERVED].

(ii) ***Syria*.** Applications for military end-users or military end-uses in Syria will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. No contract sanctity date is available for items valued at $7 million or more to military end-users or end-uses. The contract sanctity date for all other items for all end-users: December 16, 1986.

(iii) ***Sudan*.** Applications for military end-users or military end-uses in Sudan will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. Contract sanctity date: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for all end-users in North Korea of such equipment will generally be denied.

(2) All items subject to chemical and biological weapons proliferation controls. Applications for all end-users in North Korea, Syria, or Sudan of these items will generally be denied. See Supplement No. 1 to part 742 for contract sanctity dates for Syria. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993), or unless an earlier date for any item is listed in Supplement 1 to part 742.

(3) All items subject to missile proliferation controls (MTCR). Applications for all end-users in North Korea, Syria, or Sudan will generally be denied. Contract sanctity provisions for Syria are not available. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(4) All items subject to nuclear weapons proliferation controls (NRL).

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or end-uses to Syria will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. No contract sanctity date is available.

(iii) ***Sudan.*** Applications for military end-users or end-uses in Sudan will generally be denied. Applications for export and reexport to non-military end-users or end-uses will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. No contract sanctity date is available.

(iv) ***North Korea*.** Applications for all end-users in North Korea will generally be denied.

(5) All military-related items, i.e., applications

for export and reexport of items controlled by CCL entries ending with the number "18".

(i) [RESERVED]

(ii) ***Syria*.** Applications for all end-users in Syria will generally be denied. Contract sanctity date: see paragraph (c)(1)(ii) of this Supplement.

(iii) ***Sudan*.** Applications for all end-users in Sudan will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for all end-users in North Korea will generally be denied.

(6) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components.

(i) [RESERVED]

(ii) ***Syria*.** Applications for all end-users in Syria will generally be denied.

(A) There is no contract sanctity for helicopters exceeding 10,000 lbs. empty weight or fixed wing aircraft valued at $3 million or more; except that passenger aircraft, regardless of value, have a contract sanctity date of December 16, 1986, if destined for a regularly scheduled airline with assurance against military use.

(B) Contract sanctity date for helicopters with 10,000 lbs. empty weight or less: April 28, 1986.

(C) Contract sanctity date for other aircraft and gas turbine engines therefor: December 16, 1986.

(D) Contract sanctity date for helicopter or aircraft parts and components controlled by ECCN 9A991.d: August 28, 1991.

(iii) ***Sudan*.** Applications for all end-users in Sudan will generally be denied. Contract sanctity date: January 19, 1996.

(iv) ***North Korea*.** Applications for all end-users in North Korea will generally be denied.

(7) Heavy duty, on-highway tractors.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(8) Off-highway wheel tractors of carriage capacity 9t (10 tons) or more.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military

end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in

Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(9) Large diesel engines (greater than 400 horsepower) and parts to power tank transporters.

(i) [RESERVED]

(ii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(10) Cryptographic, cryptoanalytic, and cryptologic equipment.

(i) [RESERVED]

(ii) ***Syria*.** A license is required for all national security-controlled cryptographic, cryptoanalytic, and cryptologic equipment to all end-users. Applications for all end-users in Syria will generally be denied. Contract sanctity date for cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) ***Sudan*.** Applications for all end-users in Sudan of any such equipment will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea***. Applications for all end-users in North Korea of any such equipment will generally be denied.

(11) Navigation, direction finding, and radar equipment.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for exports of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other navigation, direction finding, and radar

equipment: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan of such equipment will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(12) Electronic test equipment.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for electronic test equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other electronic test equipment: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(13) Mobile communications equipment.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for mobile communications equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other mobile communications equipment: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan of such equipment will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy

reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*****.** Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(14) Acoustic underwater detection equipment.

(i) [RESERVED]

(ii) ***Syria*****.** A license is required for acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for acoustic underwater detection equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) ***Sudan*****.** Applications for military end-users or for military end-uses to Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*****.** Applications for military end-users or for military end-uses in North Korea of such equipment of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of such equipment will be considered on a case-by-case basis.

(15) Portable electric power generator.

(i) [RESERVED]

(ii) ***North Korea*****.** Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of such equipment will be considered on a case-by-case basis.

(16) Vessels and boats, including inflatable boats.

(i) [RESERVED]

(ii) ***Syria*****.** A license is required for national security-controlled vessels and boats. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for vessels and boats that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) ***Sudan*****.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea***. Applications for military end-users or for military end-uses in North Korea

of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of these items will be considered on a case-by-case basis.

(17) Marine and submarine engines (out-board/inboard, regardless of horsepower).

(i) [RESERVED]

(ii) ***Syria.*** A license is required for all marine and submarine engines subject to national security controls to all end-users. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for marine and submarine engines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea.*** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of these items will be considered on a case-by-case basis.

(18) Underwater photographic equipment.

(i) [RESERVED]

(ii) ***Syria.*** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for underwater photographic equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment: August 28, 1991.

(iii) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea.*** Applications for all end-users in North Korea of such equipment will generally be denied.

(19) Submersible systems.

(i) [RESERVED]

(ii) ***Syria.*** Applications for military end-users or for military end-uses in Syria of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for submersible systems that were subject to national

security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other submersible systems: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies(e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for all end-users in North Korea of such equipment will generally be denied.

(20) Scuba gear and related equipment.

(i) [RESERVED]

(ii) ***Sudan*.** Applications for military end-users and end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) ***North Korea*.** Applications for all end-users in North Korea of such equipment will generally be denied.

(21) Pressurized aircraft breathing equipment.

(i) [RESERVED]

(ii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) ***North Korea*.** Applications for all end-users in North Korea of such equipment will generally be denied.

(22) Computer numerically controlled machine tools.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for computer numerically controlled machine tools that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other computer numerically controlled machine tools: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for all end-users in North Korea of such equipment will generally be denied.

(23) Vibration test equipment.

(i) [RESERVED]

(ii) ***Syria.*** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for vibration test equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other vibration test equipment: August 28, 1991.

(iii) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea.*** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(24) Digital computers with an APP of .00001 WT or above, assemblies, related equipment, equipment for development or production of magnetic and optical storage equipment, and materials for fabrication of head/disk assemblies.

(i) [RESERVED]

(ii) ***Syria.*** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity dates for items that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other items: August 28, 1991.

(iii) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea.***

(A) Computers with an APP exceeding 0.0004 WT: Applications for all end-users will generally be denied.

(B) Computers with an APP equal to or less than 0.0004 WT: Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non- nuclear end-uses, will be considered on a case-by-case basis.

(25) Telecommunications equipment.

(i) A license is required for the following telecommunications equipment:

(A) Radio relay systems or equipment operating at a frequency equal to or greater than 19.7 GHz or "spectral efficiency" greater than 3 bit/s/Hz;

(B) Fiber optic systems or equipment operating at a wavelength greater than 1000 nm;

(C) "Telecommunications transmission systems" or equipment with a "digital transfer rate" at the highest multiplex level exceeding 45 Mb/s.

(ii) [RESERVED]

(iii) ***Syria.*** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for exports of telecommunications equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other telecommunications equipment: August 28, 1991.

(iv) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(v) ***North Korea.*** Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(26) Microprocessors.

(i) Operating at a clock speed over 25 MHz.

(A) [RESERVED]

(B) ***Syria.*** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(*1*) Contract sanctity date for microprocessors that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(*2*) Contract sanctity date for all other microprocessors: August 28, 1991.

(C) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(ii) With a processing speed of 0.5 GFLOPS or above.

(A) ***North Korea.*** Applications for all

end-users in North Korea of these items will generally be denied.

(B) [RESERVED]

(27) Semiconductor manufacturing equipment.
For Syria, Sudan, or North Korea, a license is required for all such equipment described in ECCNs 3B001 and 3B991.

(i) [RESERVED]

(ii) *Syria.* Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other semiconductor manufacturing equipment: August 28, 1991.

(iii) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea.*** Applications for all end-users in North Korea of such equipment will generally be denied.

(28) Software specially designed for the computer-aided design and manufacture of integrated circuits.

(i) [RESERVED]

(ii) ***Syria.*** Applications for military end-users or for military end-uses in Syria of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such software that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such software: August 28, 1991.

(iii) ***Sudan.*** Applications for military end-users or for military end-uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea.*** Applications for military end-users or for military end-uses in North Korea of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(29) Packet switches. Equipment described in ECCN 5A991.c.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for packet switches that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other packet switches: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(30) Specially designed software for air traffic control applications that uses any digital signal processing techniques for automatic target tracking or that has a facility for electronic tracking.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such software that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other such software: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(31) Gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for gravity meters that were subject to national security controls on August 28, 1991: see paragraph

(c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other such gravity meters: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(32) Magnetometers with a sensitivity lower (better) than 1.0 nt rms per square root Hertz.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such magnetometers that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such magnetometers: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(33) Fluorocarbon compounds described in ECCN 1C006.d for cooling fluids for radar.

(i) **[**RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such compounds will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such fluorocarbon compounds that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such fluorocarbon compounds: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such compounds will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g.,

items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(34) High strength organic and inorganic fibers (kevlar) described in ECCN 1C210.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of such fibers will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for high strength organic and inorganic fibers (kevlar) described in ECCN 1C210 that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other high strength organic and inorganic fibers (kevlar) described in ECCN 1C210: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of such fibers will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(35) Machines described in ECCNs 2B003 and 2B993 for cutting gears up to 1.25 meters in diameter.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for machines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other machines: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for

non-military end-uses will be considered on a case-by-case basis.

(36) Aircraft skin and spar milling machines.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other aircraft skin and spar milling machines: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for all end-users in North Korea of such equipment will generally be denied.

(37) Manual dimensional inspection machines described in ECCN 2B996.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for such manual dimensional inspection machines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such manual dimensional inspection machines: August 28, 1991.

(iii) ***Sudan*.** Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea***. Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(38) Robots capable of employing feedback information in real time processing to generate or modify programs.

(i) [RESERVED]

(ii) ***Syria*.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for

non-military end-uses in Syria will be considered on a case-by case basis.

(A) Contract sanctity date for such robots that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such robots: August 28, 1991.

(iii) ***Sudan***. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) ***North Korea*.** Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(39) Explosives detection equipment described in ECCN 2A983.

(i) Explosives detection equipment described in ECCN 2A983, controlled prior to April 3, 2003 under ECCN 2A993.

(A) [RESERVED]

(B) ***Syria*.** Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: January 19, 1996.

(C) ***Sudan*.** Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date: January 19, 1996.

(D) ***North Korea*.** Applications for all end-users in North Korea of these items will generally be denied.

(ii) Explosives detection equipment described in ECCN 2A983, not controlled prior to April 3, 2003 under ECCN 2A993.

(A) [RESERVED]

(B) *Syria***.** Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: March 21, 2003.

(C) ***Sudan*.** Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(D) ***North Korea*.** Applications for all end-users in North Korea of these items will generally be denied. Contract sanctity date: March 21, 2003.

(40) "Software" described in ECCN 2D983 specially designed or modified for the "development", "production" or "use" of explosives detection equipment.

(i) [RESERVED]

(ii) ***Syria*.** Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: March 21, 2003.

(iii) ***Sudan*.** Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(iv) ***North Korea*.** Applications for all

end-users in North Korea of these items will generally be denied. Contract sanctity date: March 21, 2003.

(41) "Technology" described in ECCN 2E983 specially designed or modified for the "development", "production" or "use" of explosives detection equipment.

(i) [RESERVED]

(ii) ***Syria*****.** Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: March 21, 2003.

(iii) ***Sudan*****.** Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(iv) ***North Korea*****.** Applications for all end-users in North Korea of these items will generally be denied. Contract sanctity date: March 21, 2003.

(42) Production technology controlled under ECCN 1C355 on the CCL.

(i) [RESERVED]

(ii) ***Syria*****.** Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(iii) ***Sudan*****.** Applications for all end-users in Sudan of these items will generally be denied.

(iv) ***North Korea*****.** Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(43) Commercial Charges and devices controlled under ECCN 1C992 on the CCL.

(i) [RESERVED]

(ii) ***Syria*****.** Applications for all end-users in Syria of these items will generally be denied.

(iii) ***Sudan*****.** Applications for all end-users in Sudan of these items will generally be denied.

(iv) ***North Korea*****.** Applications for all end-users in North Korea of these items will generally be denied.

(44) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, under ECCN 1C997 on the CCL.

(i) [RESERVED]

(ii) ***Syria*****.** Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: June 15, 2001.

(iii) ***Sudan*****.** Applications for all end-users in Sudan of these items will generally be denied.

(iv) ***North Korea*****.** Applications for all end-users in North Korea of these items will generally be denied. Contract sanctity date: June 15, 2001.

(45) Specific processing equipment, materials and software controlled under ECCNs 0A999, 0B999, 0D999, 1A999, 1C999, 1D999, 2A999, 2B999, 3A999, and 6A999 on the CCL.

(i) ***North Korea*****.** Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear

end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(ii) [RESERVED]

(46) Concealed object detection equipment described in ECCN 2A984.

(i) ***Syria*****.** Applications for all end-users in Syria of these commodities will generally be denied. Contract sanctity date: March 19, 2010.

(ii) ***Sudan*****.** Applications for all end-users in Sudan of these commodities will generally be denied. Contract sanctity date: March 19, 2010.

(iii) ***North Korea*****.** Applications for all end-users in North Korea of these commodities will generally be denied. Contract sanctity date: March 19, 2010.

(47) "Software" described in ECCN 2D984 "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(i) ***Syria*****.** Applications for all end-users in Syria of these software will generally be denied. Contract sanctity date: March 19, 2010.

(ii) ***Sudan*****.** Applications for all end-users in Sudan of these software will generally be denied. Contract sanctity date: March 19, 2010.

(iii) ***North Korea*****.** Applications for all end-users in North Korea of these software will generally be denied. Contract sanctity date: March 19, 2010.

(48) "Technology" described in ECCN 2E984 "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

(i) ***Syria*****.** Applications for all end-users in Syria of these items will generally be denied. Contract sanctity date: March 19, 2010.

(ii) ***Sudan***. Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date: March 19, 2010.

(iii) ***North Korea*****.** Applications for all end-users in North Korea of these items will generally be denied. Contract sanctity date: March 19, 2010.

SUPPLEMENT NO. 3 - [RESERVED]

SUPPLEMENT NO. 4 – [RESERVED]

SUPPLEMENT NO. 5 TO PART 742 - ENCRYPTION REGISTRATION

Certain classification requests and self-classification reports for encryption items must be supported by an encryption registration, i.e., the information as described in this Supplement, submitted as a support documentation attachment to an application in accordance with the procedures described in §§ 740.17(b), 740.17(d), 742.15(b), 748.1, 748.3 and Supplement No. 2 to part 748 of the EAR.

(1) Point of Contact Information

(a) Contact Person
(b) Telephone Number
(c) Fax Number
(d) E-mail address
(e) Mailing Address

(2) Company Overview (approximately 100 words).

(3) Identify which of the following categories apply to your companys technology/families of products:

(a) **Wireless**
  (i) 3G cellular
  (ii) 4G cellular/WiMax/LTE
  (iii) Short-range wireless / WLAN
  (iv) Satellite
  (v) Radios
  (vi) Mobile communications, n.e.s.
(b) Mobile applications
(c) Computing platforms
(d) Multimedia over IP
(e) Trusted computing
(f) Network infrastructure
(g) Link layer encryption
(h) Smartcards or other identity management
(i) Computer or network forensics
(j) Software
  (i) Operating systems
  (ii) Applications
(k) Toolkits / ASICs / components
(l) Information security including secure storage
(m) Gaming
(n) Cryptanalytic tools
(o) "Open cryptographic interface" (or other support for user-supplied or non-standard cryptography)
(p) Other (identify any not listed above)
(q) Not Applicable (Not a producer of encryption or information technology items)

(4) Describe whether the products incorporate or use proprietary, unpublished or non-standard cryptographic functionality, including encryption algorithms or protocols that have not been adopted or approved by a duly recognized international standards body. (If unsure, please explain)

(5) Will your company be exporting "encryption source code"?

(6) Do the products incorporate encryption components produced or furnished by non-U.S. sources or vendors? (If unsure, please explain)

(7) With respect to your companys encryption products, are any of them manufactured outside the United States? If yes, provide manufacturing locations. (Insert "not applicable", if you are not the principal producer of encryption products)

SUPPLEMENT NO. 6 TO PART 742 --TECHNICAL QUESTIONNAIRE FOR ENCRYPTION ITEMS

(a) For all encryption items:

(1) State the name(s) of each product being submitted for classification or other consideration (as a result of a request by BIS) and provide a brief non technical description of the type of product (e.g., routers, disk drives, cell phones, and chips) being submitted, and provide brochures, data sheets, technical specifications or other information that describe the item(s).

(2) Indicate whether there have been any prior classifications or registrations of the product(s), if they are applicable to the current submission. For products with minor changes in encryption functionality, you must include a cover sheet with complete reference to the previous review (Commodity Classification Automated Tracking System (CCATS) number, Encryption Registration Number (ERN), Export Control Classification Number (ECCN), authorization paragraph) along with a clear description of the changes.

(3) Describe how encryption is used in the product and the categories of encrypted data (e.g., stored data, communications, management data, and internal data).

(4) For 'mass market' encryption products, describe specifically to whom and how the product is being marketed and state how this method of marketing and other relevant information (e.g., cost of product and volume of sales) are described by the Cryptography Note (Note 3 to Category 5, Part 2).

(5) Is any "encryption source code" being provided (shipped or bundled) as part of this offering? If yes, is this source code publicly available source code, unchanged from the code obtained from an open source web site, or is it proprietary "encryption source code?"

(b) For classification requests and other submissions for an encryption commodity or software, provide the following information:

(1) Description of all the symmetric and asymmetric encryption algorithms and key lengths and how the algorithms are used, including relevant parameters, inputs and settings. Specify which encryption modes are supported (e.g., cipher feedback mode or cipher block chaining mode).

(2) State the key management algorithms, including modulus sizes that are supported.

(3) For products with proprietary algorithms, include a textual description and the source code of the algorithm.

(4) Describe the pre-processing methods (e.g., data compression or data interleaving) that are applied to the plaintext data prior to encryption.

(5) Describe the post-processing methods (e.g., packetization, encapsulation) that are applied to the cipher text data after encryption.

(6) State all communication protocols (e.g., X.25, Telnet, TCP, IEEE 802.11, IEEE 802.16, SIP ...) and cryptographic protocols and methods (e.g., SSL, TLS, SSH, IPSEC, IKE, SRTP, ECC, MD5, SHA, X.509, PKCS standards...) that are supported and describe how they are used.

(7) Describe the encryption-related Application Programming Interfaces (APIs) that are implemented and/or supported. Explain which interfaces are for internal (private) and/or external (public) use.

(8) Describe the cryptographic functionality

that is provided by third-party hardware or software encryption components (if any). Identify the manufacturers of the hardware or software components, including specific part numbers and version information as needed to describe the product. Describe whether the encryption software components (if any) are statically or dynamically linked.

(9) For commodities or software using Java byte code, describe the techniques (including obfuscation, private access modifiers or final classes) that are used to protect against decompilation and misuse.

(10) State how the product is written to preclude user modification of the encryption algorithms, key management and key space.

(11) Describe whether the product meets any of the §740.17(b)(2) criteria. Provide specific data for each of the parameters listed, as applicable (e.g., maximum aggregate encrypted user data throughput, maximum number of concurrent encrypted channels, and operating range for wireless products).

(12) For products which incorporate an "open cryptographic interface" as defined in part 772 of the EAR, describe the cryptographic interface.

(c) For classification requests for hardware or software "encryption components" other than source code (i.e., chips, toolkits, executable or linkable modules intended for use in or production of another encryption item) provide the following additional information:

(1) Reference the application for which the components are used in, if known;

(2) State if there is a general programming interface to the component;

(3) State whether the component is constrained by function; *and*

(4) Identify the encryption component and include the name of the manufacturer, component model number or other identifier.

(d) For classification requests for "encryption source code" provide the following information:

(1) If applicable, reference the executable (object code) product that was previously classified by BIS or included in an encryption registration to BIS;

(2) Include whether the source code has been modified, and the technical details on how the source code was modified; *and*

(3) *Upon request*, include a copy of the sections of the source code that contain the encryption algorithm, key management routines and their related calls.

SUPPLEMENT NO. 7 TO PART 742 --DESCRIPTION OF MAJOR WEAPONS SYSTEMS

(1) Battle Tanks: Tracked or wheeled self-propelled armored fighting vehicles with high cross-country mobility and a high-level of self protection, weighing at least 16.5 metric tons unladen weight, with a high muzzle velocity direct fire main gun of at least 75 millimeters caliber.

(2) Armored Combat Vehicles: Tracked, semi-tracked, or wheeled self-propelled vehicles, with armored protection and cross-country capability, either designed and equipped to transport a squad of four or more infantrymen, or armed with an integral or organic weapon of a least 12.5 millimeters caliber or a missile launcher.

(3) Large-Caliber Artillery Systems: Guns, howitzers, artillery pieces combining the characteristics of a gun or a howitzer, mortars or multiple-launch rocket systems, capable of engaging surface targets by delivering primarily indirect fire, with a caliber of 75 millimeters and above.

(4) Combat Aircraft: Fixed-wing or variable-geometry wing aircraft designed, equipped, or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons, or other weapons of destruction, including versions of these aircraft which perform specialized electronic warfare, suppression of air defense or reconnaissance missions. The term "combat aircraft" does not include primary trainer aircraft, unless designed, equipped, or modified as described above.

(5) Attack Helicopters: Rotary-wing aircraft designed, equipped or modified to engage targets by employing guided or unguided anti-armor, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons, including versions of these aircraft that perform specialized reconnaissance or electronic warfare missions.

(6) Warships: Vessels or submarines armed and equipped for military use with a standard displacement of 750 metric tons or above, and those with a standard displacement of less than 750 metric tons that are equipped for launching missiles with a range of at least 25 kilometers or torpedoes with a similar range.

(7) Missiles and Missile Launchers:

(a) Guided or unguided rockets, or ballistic, or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 kilometers, and those items that are designed or modified specifically for launching such missiles or rockets, if not covered by systems identified in paragraphs (1) through (6) of this Supplement. For purposes of this rule, systems in this paragraph include remotely piloted vehicles with the characteristics for missiles as defined in this paragraph but do not include ground-to-air missiles;

(b) Man-Portable Air-Defense Systems (MANPADS); or

(c) Unmanned Aerial Vehicles (UAVs) of any type, including sensors for guidance and control of these systems, except model airplanes.

(8) Offensive Space Weapons: Systems or capabilities that can deny freedom of action in space for the United States and its allies or hinder the United States and its allies from denying an adversary the ability to take action in space. This includes systems such as anti-satellite missiles, or other systems designed to defeat or destroy assets in space.

(9) Command, Control, Communications, Computer, Intelligence, Surveillance, and Reconnaissance (C4ISR): Systems that support military commanders in the exercise of authority and direction over assigned forces across the range of military operations; collect, process, integrate, analyze, evaluate, or interpret information concerning foreign countries or areas; systematically observe aerospace, surface or subsurface areas, places, persons, or things by visual, aural, electronic, photographic, or other means; and obtain, by visual observation or other detection methods, information about the activities and resources of an enemy or potential enemy, or secure data concerning the meteorological, hydrographic, or geographic characteristics of a particular area, including Undersea communications. Also includes sensor technologies.

(10) Precision Guided Munitions (PGMs), including "smart bombs": Weapons used in precision bombing missions such as specially designed weapons, or bombs fitted with kits to allow them to be guided to their target.

(11) Night vision equipment: Any electro-optical device that is used to detect visible and infrared energy and to provide an image. This includes night vision goggles, forward-looking infrared systems, thermal sights, and low-light level systems that are night vision devices, as well as infrared focal plane array detectors and cameras specifically designed, developed, modified, or configured for military use; image intensification and other night sighting equipment or systems specifically designed, modified or configured for military use; second generation and above military image intensification tubes specifically designed, developed, modified, or configured for military use, and infrared, visible and ultraviolet devices specifically designed, developed, modified, or configured for military application.

SUPPLEMENT NO. 8 TO PART 742 - SELF-CLASSIFICATION REPORT FOR ENCRYPTION ITEMS

This supplement provides certain instructions and requirements for self-classification reporting to BIS and the ENC Encryption Request Coordinator (Ft. Meade, MD) of encryption commodities, software and components exported or reexported pursuant to encryption registration under License Exception ENC (§ 740.17(b)(1) only) or 'mass market' (§ 742.15(b)(1) only) provisions of the EAR. See § 742.15(c) of the EAR for additional instructions and requirements pertaining to this supplement, including when to report and how to report.

(a) Information to report

The following information is required in the file format as described in paragraph (b) of this supplement, for each encryption item subject to the requirements of this supplement and §§ 740.17(b)(1) and 742.15(b)(1) of the EAR:

(1) Name of product (50 characters or less.)

(2) Model / series / part number (50 characters or less.) If necessary, enter 'NONE' or 'N/A'.

(3) Primary manufacturer (50 characters or less.) Enter 'SELF' if you are the primary manufacturer of the item. If there are multiple manufacturers for the item but none is clearly primary, either enter the name of one of the manufacturers or else enter 'MULTIPLE'. If necessary, enter 'NONE' or 'N/A'.

(4) Export Control Classification Number (ECCN), selected from one of the following:

(i) 5A002
(ii) 5B002
(iii) 5D002
(iv) 5A992
(v) 5D992

(5) Encryption authorization type identifier, selected from *one* of the following, which denote eligibility under License Exception ENC (§ 740.17(b)(1), only) or as 'mass market' (§ 742.15(b)(1), only)

(i) ENC
(ii) MMKT

(6) Item type descriptor, selected from one of the following:

(i) access point
(ii) cellular
(iii) computer
(iv) computer forensics
(v) cryptographic accelerator
(vi) data backup and recovery
(vii) database
(viii) disk / drive encryption
(ix) distributed computing
(x) e-mail communications
(xi) fax communications
(xii) file encryption
(xiii) firewall
(xiv) gateway
(xv) intrusion detection
(xvi) key exchange
(xvii) key management
(xviii) key storage
(xix) link encryption
(xx) local area networking (LAN)
(xxi) metropolitan area networking (MAN)
(xxii) modem
(xxiii) network convergence or infrastructure n.e.s.
(xxiv) network forensics
(xxv) network intelligence
(xxvi) network or systems management (OAM / OAM&P)
(xxvii) network security monitoring
(xxviii) network vulnerability and penetration testing
(xxix) operating system

(xxx) optical networking
(xxxi) radio communications
(xxxii) router
(xxxiii) satellite communications
(xxxiv) short-range wireless n.e.s.
(xxxv) storage area networking (SAN)
(xxxvi) 3G / 4G / LTE / WiMAX
(xxxvii) trusted computing
(xxxviii) videoconferencing
(xxxix) virtual private networking (VPN)
(xl) voice communications n.e.s.
(xli) voice over Internet protocol (VoIP)
(xlii) wide area networking (WAN)
(xliii) wireless local area networking (WLAN)
(xliv) wireless personal area networking (WPAN)
(xlv) commodities n.e.s.
(xlvi) components n.e.s.
(xlvii) software n.e.s.
(xlviii) test equipment n.e.s.
(xlix) OTHER

(b) File format requirements.

(1) The information described in paragraph (a) of this supplement must be provided in tabular or spreadsheet form, as an electronic file in comma separated values format (.csv), only. No file formats other than .csv will be accepted, as your encryption self-classification report must be directly convertible to tabular or spreadsheet format, where each row (and all entries within a row) properly correspond to the appropriate encryption item.

Note to paragraph (b)(1): *An encryption self-classification report data table created and stored in spreadsheet format (e.g., file extension .xls, .numbers, .qpw, .wb*, .wrk, and .wks) can be converted and saved into a comma delimited file format directly from the spreadsheet program. This .csv file is then ready for submission.*

(2) Each line of your encryption self-classification report (.csv file) must consist of six entries as further described in this supplement.

(3) The first line of the .csv file must consist of the following six entries (i.e., match the following) without alteration or variation: PRODUCT NAME, MODEL NUMBER, MANUFACTURER, ECCN, AUTHORIZATION TYPE, ITEM TYPE

Note to paragraph (b)(3): *These first six entries (i.e., first line) of a encryption self-classification report in .csv format correspond to the six column headers (i.e., first row) of a spreadsheet data file.*

(4) Each subsequent line of the .csv file must correspond to a single encryption item (or a distinguished series of products) as described in paragraph (c) of this supplement.

(5) Each line must consist of six entries as described in paragraph (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this supplement. No entries may be left blank. Each entry must be separated by a comma (,). Certain additional instructions are as follows:

(i) Line entries (a)(1) (‘PRODUCT NAME’) and (a)(4) (‘ECCN’) must be completed with relevant information.

(ii) For entries (a)(2) (‘MODEL NUMBER’) and (a)(3) (‘MANUFACTURER’), if these entries do not apply to your item or situation you may enter ‘NONE’ or ‘N/A’.

(iii) For entries (a)(5) (‘AUTHORIZATION TYPE’), if none of the provided choices apply to your situation, you may enter ‘OTHER’.

(6) Because of .csv file format requirements, the only permitted use of a comma is as the necessary separator between line entries. You may not use a comma for any other reason in your encryption self-classification report.

(c) Other instructions

(1) The information provided in accordance with this supplement and §§ 740.17(b)(1), 742.15(b)(1) and 742.15(c) of the EAR must identify product offerings as they are typically distinguished in inventory, catalogs, marketing brochures and other promotional materials.

(2) For families of products where all the information described in paragraph (a) of this supplement is identical except for the model / series / part number (entry (a)(2)), you may list and describe these products with a single line in your .csv file using an appropriate model / series / part number identifier (e.g., ‘300’ or ‘3xx’) for entry (a)(2), provided each line in your .csv file corresponds to a single product series (or product type) within an overall product family.

(3) For example, if Company A produces, markets and sells both a ‘100' (‘1xx’) and a ‘300’ (‘3xx’) series of product, in its encryption self-classification report (.csv file) Company A must list the ‘100' product series in one line (with entry (a)(2) completed as ‘100’ or ‘1xx’) and the ‘300’ product series in another line (with entry (a)(2) completed as ‘300’ or ‘3xx’), even if the other required information is common to all products in the ‘100’ and ‘300’ series.