



## **DEPARTMENT OF COMMERCE**

### **Bureau of Industry and Security**

#### **15 CFR Parts 734, 736, 738, 740, 742, 744, and 746**

**[Docket No. 220302-0065]**

**RIN 0694-AI75**

### **Imposition of Sanctions Against Belarus Under the Export Administration Regulations (EAR)**

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** In response to Belarus’s substantial enabling of the Russian Federation’s (Russia)’s further invasion of Ukraine, this rule is adding new license requirements and review policies for Belarus to the Export Administration Regulations (EAR) to render Belarus subject to the same sanctions that were imposed on Russia under the EAR effective February 24, 2022. These new sanctions impose new Commerce Control List (CCL)-based license requirements for Belarus; revise the two foreign “direct product” rules (FDP rules) that are specific to Russia and Russian ‘military end users’ to make them also applicable to Belarus and Belarusian ‘military end users;’ specify a license review policy of denial applicable to all of the license requirements on Belarus that are being added in this rule, with certain limited exceptions; significantly restrict the use of EAR license exceptions; expand the existing ‘military end use’ and ‘military end user’ control scope to include Belarus for all items “subject to the EAR” other than food and medicine designated EAR99; and add two new Belarusian entities to the Entity List as ‘military end users.’ This rule also imposes a license requirement for nuclear nonproliferation items for exports and

reexports to Belarus and removes Belarus from Country Group A:4 under the EAR. In addition, for Belarus and Russia, this rule amends the availability of License Exceptions AVS and ENC and includes clarifying guidance on the availability of CCD.

**DATES:** This rule is effective on [INSERT DATE OF FILING FOR PUBLIC INSPECTION].

**FOR FURTHER INFORMATION CONTACT:** For questions on the Entity List and MEU List, contact the Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: ERC@bis.doc.gov.

For other questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-0092, Fax: (202) 482-482-3355, E-mail: rpd2@bis.doc.gov. For emails, include “Russia and Belarus” in the subject line.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

In response to Russia’s February 2022 invasion of Ukraine and Belarus’s substantial enabling of this invasion by supporting the staging of Russian military forces on Belarusian territory and supporting the invasion to proceed from such territory, the Bureau of Industry and Security (BIS) imposes extensive sanctions on Belarus by amending the Export Administration Regulations (15 CFR parts 730 – 774) (EAR). This rule subjects Belarus to the same licensing restrictions under the EAR that were imposed on Russia as part of the final rule, *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)*, effective on February 24, 2022<sup>1</sup> (“Russia Sanctions rule”). This rule also revises the designation for Belarus in the Country Groups in supplement no. 1 to part 740 to impose a license requirement for

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<sup>1</sup> FR 2022-04300, scheduled to publish 3/3/2022.

Nuclear Nonproliferation (NP) column 1 in the Commerce Country Chart in supplement no. 1 to part 738 of the EAR, as described further below.

Russia's invasion of Ukraine, substantially enabled by Belarus, flagrantly violates international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security, and therefore necessitates these stringent and expansive sanctions. The Commerce Department's sanctions on both Russia and Belarus are one aspect of the broad U.S. Government response to Russia's unprovoked aggression, along with Belarus's substantial enabling of such aggression, and are being imposed in coordination with allies and partners.

After imposing sanctions on Russia on February 24, 2022, in response to Russia's further invasion of Ukraine, the U.S. Government announced that should Russia encroach further into Ukraine's territory, it would impose additional, comprehensive sanctions with even graver consequences. The U.S. Government made it clear to the government of Belarus that there would be significant consequences should it enable or otherwise facilitate Russian military actions against Ukraine. Notably, State Department spokesman Ned Price told reporters on January 25, 2022 that "[w]e've also made clear to Belarus that if it allows its territory to be used for an attack on Ukraine, it would face a swift and decisive response from the United States and our allies and partners."

The export control measures implemented in this final rule protect U.S. national security and foreign policy interests by restricting Belarus's access to items that it needs to support its military capabilities and preventing such items from being diverted through Belarus to Russia. These items include sophisticated technologies designed and produced in the United States, as well as certain foreign-produced items that contain or are based on U.S.-origin technology and software subject to the EAR or other technology and software that is subject to the EAR that are essential inputs to Belarus's and Russia's key technology and other sectors.

BIS is primarily targeting the Belarusian defense, aerospace, and maritime sectors with these new export controls. These export controls include controls on the export from abroad of certain foreign-produced items that are subject to the EAR. Given the global prevalence of U.S.-origin software, technology, and equipment (including tooling) used in advanced equipment and systems, these new controls, implemented in parallel with similarly stringent measures by partner and allied countries, will cover a broad scope of items that Belarus seeks to advance its military capabilities or to provide to the Russian government to enable the latter's projection of power and fulfillment of its strategic ambitions.

## **II. Overview of New Controls**

BIS is implementing a new license requirement for Belarus on items subject to the EAR and classified under any Export Control Classification Number (ECCN) in Categories 3 through 9 of the Commerce Control List, supplement. no. 1 to part 774 of the EAR (CCL). The new license requirement is added under new § 746.8(a)(1) (Russia and Belarus sanctions) in part 746 of the EAR (Embargoes and Other Special Controls). License exceptions described in § 746.8(c)(1)-(7) may be used to overcome the license requirement. When a license application is required, applications for such items will be subject to a policy of denial. However, to minimize unintended consequences, a case-by-case review policy applies to applications to export, reexport, or transfer (in-country) items that ensure safety of flight, ensure maritime safety, applications for civil nuclear safety, meet humanitarian needs, enable government space cooperation, and allow transactions for items destined to specified Western subsidiaries and joint ventures, support civil telecommunications infrastructure in certain countries, and government-to-government activities. The case-by-case review policy will be used to determine whether a transaction that meets the criteria above would benefit the Belarusian government or defense sector or present a risk of diversion to Russia. Additionally, BIS is revising two foreign "direct product" rules (FDP rules) in § 734.9 of the EAR that were added to the EAR in the Russia

Sanctions rule to add Belarus to the scope of these two FDP rules. The first FDP rule now relates to both Russia and Belarus, as described in revised § 734.9(f) (the “Russia/Belarus FDP rule”). Foreign-produced items subject to the EAR under the Russia/Belarus FDP rule will be subject to the license requirement described in new § 746.8(a)(2) but will be eligible for certain license exceptions described in § 746.8(c)(1)-(7). When a license application is required, it will be subject to a general policy of denial but will be subject to case-by-case review for certain circumstances described further in § 746.8(b).

The second FDP rule now targets both Russian and Belarusian ‘military end users,’ as described in revised § 734.9(g) (the “Russia/Belarus-MEU FDP rule”), with the revisions made in this rule. Foreign-produced items subject to the EAR under the Russia/Belarus-MEU FDP rule will be subject to the license requirement described in new § 746.8(a)(3). No license exceptions are available to overcome this license requirement, except as specified in the Entity List entry for a footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR, and such items will be subject to a policy of denial for all license applications, as described in § 746.8(b).

BIS has determined that certain countries are committed to implementing substantially similar export controls as part of their domestic sanctions against Russia and Belarus. These countries are identified in supplement No. 3 to part 746 (Russia and Belarus Exclusions List). They are excluded from the requirements of the Russia/Belarus FDP rule and the Russia/Belarus MEU FDP rule and the *de minimis* provisions under supplement No. 2 to part 734 with respect to ECCNs that either specify only Anti-terrorism (AT) in the reason for controls paragraph of the ECCN or are classified under ECCN 9A991. This exclusion may be full or partial, as noted in the Scope column of the Russia and Belarus Exclusions List and may only apply when the criteria specified in § 746.8(a)(4) or (5) are met.

As part of this rule, BIS is also adding Belarus as a country subject to ‘military end use’ and ‘military end user’ controls under § 744.21 of the EAR, thereby rendering Belarus subject to

the expanded scope of the Russia Sanctions rule (*i.e.*, a license is required for all items “subject to the EAR” except food and medicine designated EAR99. This rule also adds two Belarusian entities to the Entity List with a license requirement for the export, reexport, and transfer (in-country) of all items “subject to the EAR,” including those items subject to the Russia/Belarus/MEU FDP rule that applies to ‘military end users’ in Belarus.

This rule removes the exclusion that was previously available for eight Russian ‘military end-users’ for ECCNs 5A992.c and 5D992.c when not for Russian “government end users” and Russian state-owned enterprises (SoEs) from the license requirements under §§ 746.8(a)(3) and 744.21(b). This rule also makes updates to § 746.8(c)(6), to use alternate criteria to reduce the risk of diversion.

### **III. Amendments to the Export Administration Regulations (EAR)**

#### **A. Making Belarus Subject to the Sanctions Recently Imposed on Russia**

*Addition of expansive license requirements, restrictive license review policies, and restrictions on license exception eligibility for Belarus*

Consistent with the sanctions imposed on Russia as part of the Russia Sanctions rule, this rule adds expansive license requirements on Belarus, with similarly restrictive license review policies and restrictions on license exception eligibility. Specifically, this final rule revises § 746.8 to impose new sanctions against Belarus in part 746 of the EAR (Embargoes and Other Special Controls). Under paragraph (a) (License Requirements) of this section, this rule imposes three distinct types of license requirements. The first requirement, set forth in paragraph (a)(1) is specific to the export, reexport and transfer (in-country) of items in categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. The second and third requirements, set forth in paragraphs (a)(2) and (3) are specific to reexport, export from abroad, and transfer (in-country) of foreign-produced “direct

products” subject to the EAR under the Russia/Belarus FDP rule or the Russia/Belarus MEU FDP rule.

*1. Section 746.8(a)(1) License Requirement*

Revises § 746.8(a)(1) (Items classified in an ECCN in CCL Categories 3 through 9) is supplemental to the license requirements found elsewhere in the EAR. Under this paragraph, a license is required for the export, reexport, or transfer (in-country) to or within Belarus of any item subject to the EAR and specified in an ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL, excluding deemed exports and deemed reexports. These new controls on Belarus mirror the broad controls imposed on Russia as part of the Russia Sanctions rule. In implementing these controls on Belarus, BIS is imposing broad transfer (in-country) requirements on an entire country, as it did on Russia, a restriction that reflects the significance of the U.S. national security and foreign policy concerns resulting from Belarus’s substantial enabling of Russia’s further invasion of Ukraine. These new license requirements are intended to restrict items to and within Belarus, thereby reducing the risk of diversion to the Russian military and Russian defense sector. Additionally, paragraph (a)(1) extends EAR license requirements to many items that did not previously require a license to Belarus on the basis of their CCL classification alone, such as the parts and components used in civil aircraft controlled under ECCN 9A991.d. Although these items generally are controlled at a lower level under the EAR, they are still necessary for the functioning of aircraft, vessels and electronic items. As such, restrictions on these items can significantly limit Belarus’s ability to obtain items that it is not able to produce and reduce the risk of their possible diversion to Russia. In addition, with these new license requirements, additional items will be treated as controlled U.S.-origin content for purposes of *de minimis* calculations under supplement no. 2 to part 734 of the EAR, except as described in § 746.8(a)(5). BIS estimates that these new controls will result in an additional 20 license applications being submitted to BIS annually.

## *2. Section 746.8(a)(2) License Requirement for the Russia/Belarus FDP rule*

Revised paragraph (a)(2) (Foreign produced “direct product” items subject to the EAR under the Russia/Belarus FDP rule) requirements are now expanded to apply to Belarus with this final rule. The Russia/Belarus FDP rule establishes a license requirement for foreign-produced items that meet certain product scope and destination scope requirements in § 734.9(f) of the EAR. Specifically, the Russia/Belarus FDP rule makes the “direct product” of a wide range of CCL software and technology, or items produced by a complete plant or ‘major component’ of a plant that itself is the “direct product” of such U.S.-origin technology or software, subject to the EAR when it is known that the foreign-produced item is destined to Belarus or will be incorporated into or used in the “production” or “development” of any “part,” “component,” or “equipment” produced in or destined to Belarus. Notably, the product scope of the Russia/Belarus FDP rule does not include items designated EAR99 that are produced by “technology” or “software” as described in §734.9(f)(1)(i) or by a complete plant or ‘major component’ of a plant as described in §734.9(f)(1)(ii). The Russia/Belarus FDP rule is described in greater detail below.

Under paragraph (a)(2), a license is required for the reexport, export from abroad, or transfer (in-country) of any foreign-produced items subject to the EAR under the Russia/Belarus FDP rule described in § 734.9(f) of the EAR to any destination. The phrase ‘any destination’ is used to address situations involving multi-step manufacturing processes that occur in more than one country or within a single country and in which the parties involved have “knowledge” that the foreign-produced item being produced will ultimately be reexported or exported from abroad to Belarus. The license requirements under paragraph (a)(2) will apply to the reexports or exports from abroad from manufacturing country 1 to manufacturing country 2 (each contributing to the production chain), when there is “knowledge” that the reexport or export from abroad of the item is ultimately destined to Belarus or incorporated into or used in the production



or development of any part component or equipment (not designated EAR99) produced in or ultimately destined to Belarus.

BIS estimates new license requirements under § 746.8(a)(2) will result in an additional 100 license applications being submitted to BIS annually.

### *3. Section 746.8(a)(3) License Requirement for the Russia/Belarus MEU FDP rule*

This rule revises paragraph (a)(3) (Foreign-produced “direct product” items subject to the EAR under Russia/Belarus Military End User FDP rule) of §746.8 to add Belarus. As applied to Russia as part of the Russia Sanctions rule, the Russia Military End User FDP rule established a license requirement for foreign-produced items that meet certain product scope and destination scope requirements in §734.9(g) of the EAR. This FDP rule is now being revised to also include Belarusian ‘military end users.’ The Russia/Belarus MEU FDP rule makes the “direct product” of any CCL software or technology subject to a license requirement (*i.e.*, any software or technology in an ECCN in any category of the CCL subject to the EAR, or items produced by a plant or major component of a plant that itself is the “direct product” of such U.S.-origin technology or software) when it is known that the foreign-produced item will be incorporated into, or will be used in the “production” or “development” of any “part,” “component,” or “equipment” produced, purchased, or ordered by any entity with a footnote 3 designation in the license requirement column of the Entity List. Notably, the product scope of the Russia/Belarus MEU FDP rule includes items designated EAR99 that are a “direct product” of “technology” or “software” described in § 734.9(g)(1)(i) or produced by a complete plant or ‘major component’ of a plant as described in § 734.9(g)(1)(ii). The Russia/Belarus MEU FDP rule is described in greater detail below.

Section 746.8(a)(3) specifies that except as described in paragraph (a)(4) of this section, a license is required to reexport, export from abroad, or transfer (in-country), to any destination, any foreign-produced item subject to the EAR under § 734.9(g) of the EAR other than food or

medicine designated as EAR99. Because the Russia/Belarus MEU FDP rule includes “software” and “technology” in ECCNs in Categories 0, 1 and 2 (in addition to the other 7 categories of the CCL), the likelihood that EAR99 food and medicine foreign direct products could be subject to the EAR increases. To the extent that the direct product of ECCN 0, 1, or 2 “software” or “technology” may encompass EAR99 food or medicine, this rule exempts those items from the license requirement. For the same reasons noted above in connection with paragraph (a)(2), this final rule also uses the phrase ‘any destination.’

#### *4. Countries Excluded from Certain Russia/Belarus License Requirements under Section 746.8*

This final rule also revises paragraph (a)(4) (Exclusion from license requirements under paragraphs (a)(2) and (3)) in § 746.8 to identify countries that BIS has determined are committed to implementing substantially similar export controls as part of their domestic sanctions against Belarus as well as Russia. The change made in this rule is limited to adding Belarus to the scope of the exclusion. These countries warrant full or partial exclusions, as appropriate, from the requirements set forth under paragraphs (a)(2) and (3) as identified in supplement No. 3 to part 746 (Russia and Belarus Exclusions List). Similarly, this final rule revises paragraph (a)(5) (Exclusion from scope of U.S.-origin controlled content under paragraph (a)(1)) to carve out certain content from the scope of U.S.-origin controlled content for *de minimis* purposes under supplement No. 2 to part 734 of the EAR when making a *de minimis* calculation for Belarus. Paragraph (a)(5) specifies that the license requirements in paragraph (a)(1) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided that: the U.S.-origin content is described in ECCNs that either specify only Anti-terrorism (AT) in the reason for controls paragraph of the ECCN or is classified under ECCN 9A991 and is included in the Scope column of the Russia and Belarus Exclusions List; and the foreign-made item will be

reexported or exported to Russia or Belarus from a country on the Russia and Belarus Exclusions List.

Excluded countries for purposes of § 746.8 are identified in supplement no. 3 to part 746 – Countries Excluded from Certain Russia and Belarus License Requirements, also known as the Russia and Belarus Exclusions List. This rule updates the introductory text of the supplement to add Belarus.

#### *5. Licensing Policy for Applications Required Under § 746.8*

Under paragraph (b) (Licensing Policy) of § 746.8, applications for the export, reexport or transfer (in-country) of items to Russia that require a license under new paragraph (a)(1) and (2) will be reviewed, with certain limited exceptions, under a policy of denial. This rule amends this paragraph to apply the same licensing policy of denial to Belarus and also subject Belarus to case-by-case review for the same limited categories of transactions. Specifically, license applications for certain categories of exports, reexports, and transfers (in-country) will be reviewed on a case-by-case basis to determine whether the transaction would benefit the Belarusian government or defense sector. These categories are as follows: applications related to safety of flight, related to maritime safety, to meet humanitarian needs, in support of government space cooperation; and applications for companies headquartered in Country Groups A:5 and A:6 to support civil telecommunications infrastructure, or involving government-to-government activities. In addition, applications for items destined to certain companies operating in Russia or Belarus will be reviewed on a case-by-case basis if the companies are: (1) wholly-owned U.S. subsidiaries; (2) foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, (3) joint ventures of U.S. companies with companies headquartered in Country Group A:5 and A:6 in supplement no. 1 to part 740 countries, (4) wholly-owned subsidiaries of companies headquartered in Country Group A:5 and A:6 in supplement no. 1 to part 740 countries, or (5) joint ventures of companies headquartered in

Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6. The case-by-case review policy does not apply to Belarusian-headquartered companies. This final rule also specifies in paragraph (b) that license applications required under paragraph (a)(3) will be reviewed under a policy of denial in all cases.

*6. License Exceptions for Section 746.8 License Requirements*

Lastly, under paragraph (c) (License Exceptions), this final rule specifies that certain license exceptions that apply to § 746.8(a)(1) and (2) for transactions involving Russia similarly apply for transactions involving Belarus. Specifically, the license exceptions that now apply to Belarus are: certain sections of License Exception TMP for items for use by the news media, § 740.9(a)(9); License Exception GOV, § 740.11(b); License Exception TSU for software updates for civil end users provided those civil end users are subsidiaries or joint ventures of companies headquartered in the United States or a country or countries from Country Groups A:5 or A:6, § 740.13(c); License Exception BAG, excluding firearms and ammunition (paragraph (e)), § 740.14; License Exception AVS (which now excludes any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia under this rule), § 740.15(a) and (b); License Exception ENC, with its eligibility for purposes of § 746.8(c)(6) being narrowed in this rule and now being limited to only civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6. Paragraph (c) specifies that no license exceptions in connection with transactions involving Belarus may overcome the license requirements in paragraph (a)(3) except as specified in the Entity List entry for a footnote

3 entity on the Entity List in supplement no. 4 to part 744 of the EAR, which is consistent with the fact that entities on the Entity List are generally not eligible for license exceptions.

## **B. Russia and Belarus-FDP rules**

In § 734.9 (Foreign-Direct Product (FDP) Rules), this final rule revises the two Foreign-Direct Product (FDP) rules that were added to the EAR as part of the Russia Sanctions rule by adding Belarus as a second country subject to FDP rules. The first of these two FDP rules targets Belarus as a destination, and the second targets Belarusian ‘military end users’ by revising the headings of paragraphs (f), (f)(1) and (2), and (g), and (g)(1) and (2) to add Belarus.

### *1. Addition of Belarus to the Russia FDP rule*

This rule establishes that a foreign-produced item located outside the United States is subject to the EAR if it meets both the product scope in paragraph (f)(1) of § 734.9 and the destination scope in paragraph (f)(2) of § 734.9 for Belarus. License requirements, license review policy, and license exceptions applicable to the foreign-produced items that are subject to the EAR pursuant to this paragraph (f) are identified in § 746.8, as described above. Product scope for the Russia/Belarus FDP rule is defined in paragraph (f)(1)(i) (“Direct product” of “technology” or “software”) and paragraph (f)(1)(ii) (“Direct product” of a complete plant or major component of a plant).

The criteria in paragraph (f)(1)(i) apply to a foreign-produced item that is not designated EAR99 and that is the “direct product” of U.S.-origin “technology” or “software” specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. The criteria in paragraph (f)(1)(ii) apply to a foreign-produced item that is not designated EAR99 and is produced by any plant or ‘major component’ of a plant that itself is a “direct product” of U.S.-origin “technology” or U.S.-origin “software” and specified in any ECCN in product groups D or

E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL. This is an expansive list of “technology” and “software,” which will result in many additional foreign-produced items being considered “subject to the EAR” compared to the other FDP rules set forth in the EAR that applied to Belarus prior to the publication of this rule. The additional foreign-produced items that will be “subject to the EAR” will be subject to the new license requirements imposed through this rule under the § 746.8 (Sanctions Against Russia), as described above.

For a foreign-produced item to be subject to the EAR under the Russia/Belarus FDP rule, the criteria in § 734.9(f)(2) (Destination scope of the Russia/Belarus FDP rule) must also be met. Revised paragraph (f)(2) specifies that a foreign-produced item meets the destination scope of the Russia/Belarus FDP rule if there is “knowledge” that the foreign-produced item is destined to Russia or Belarus, or will be incorporated into, or used in the “production” or “development” of any “part,” “component,” or “equipment” not designated EAR99 and produced in or destined to Russia or Belarus.

## *2. Addition of Belarus to the Russia-Military End User (Russia-MEU) FDP rule*

Paragraph (g) of § 734.9 is renamed as the Russia/Belarus MEU FDP rule and now targets Belarusian as well as Russian ‘military end users.’ To address the significant support that these Belarusian ‘military end users’ provide to the Belarusian military, this more expansive FDP rule is warranted for these identified ‘military end users’ compared to the FDP rules that apply to certain destinations under the EAR. A foreign-produced item located outside the United States is subject to the EAR if it meets both the product scope in paragraph (g)(1) of § 734.9 and the destination scope in paragraph (g)(2). License requirements, license review policy, and license exceptions applicable to the foreign-produced items that are subject to the EAR pursuant to paragraph (g), which are now identified in § 746.8, are described above.

This final rule revises paragraph (g)(1)(i) (“Direct product” of “technology” or “software”) and paragraph (g)(1)(ii) (“Direct product” of a complete plant or major component

of a plant) to define the product scope for the Russia/Belarus MEU FDP rule. The criteria in paragraph (g)(1)(i) extends to the “direct product” of “technology” or “software” subject to the EAR and specified in any ECCN in product groups D or E in any category of the CCL.

Paragraph (g)(1)(ii) applies to a foreign-produced item that is produced by a plant or ‘major component’ of a plant that itself is a “direct product” of U.S.-origin “technology” or U.S.-origin “software” subject to the EAR and specified in any ECCN in product groups D or E in any category of the CCL, which is an expansive list of “technology” and “software.” These changes will result in many additional foreign-produced items being considered “subject to the EAR” compared to the other existing FDP rules for these Belarusian ‘military end users.’ The additional foreign-produced items that will be “subject to the EAR” will be subject to the new license requirements being imposed as part of the sanctions against Belarus set forth in revised § 746.8.

For a foreign-produced item to be subject to the EAR, the criteria in paragraph (g)(2) (End-user scope of the Russia/Belarus MEU FDP rule) must be met. Paragraph (g)(2) specifies that a foreign-produced item meets the destination scope of the Russia/Belarus MEU FDP rule if there is “knowledge” as specified in paragraph (g)(2)(i) (Activities involving Footnote 3 designated entities) that a foreign-produced item will be incorporated into, or will be used in the “production” or “development” of any “part,” “component,” or “equipment” produced, purchased, or ordered by any entity with a footnote 3 designation in the license requirement column of the Entity List in supplement No. 4 to part 744 of the EAR.

Footnote 3 to the Entity List now also applies to Belarusian ‘military end users’ added to the Entity List as described below. Footnote 3 to the Entity List includes a cross reference to §§ 734.9(g), 746.8, and 744.21. As specified in paragraph (g)(2) of § 734.9, any entity with a footnote 3 designation in the license requirement column of the Entity List is a party to any transaction involving the foreign-produced item, *e.g.*, as a “purchaser,” “intermediate consignee,” “ultimate consignee,” or “end-user.” Note 3 to paragraph (g) is revised to specify

that for purposes of paragraph (g), a ‘military end user’ is any entity listed on the Entity List with a footnote 3 designation.

### **C. Conforming Changes and Corrections and Clarifications**

Based on the foregoing changes to the EAR, this final rule also makes certain conforming revisions to the Commerce Country Chart in supplement No. 1 to part 738; the Consumer Communication Devices license exceptions in § 740.19; and certain licensing review policies in part 742. These conforming revisions add references to Belarus to each of these EAR provisions, mirroring the addition of Russia to these provisions made as part of the Russian Sanctions Rule.

#### *1. Commerce Country Chart Changes*

In supplement no. 1 to part 738 – Commerce Country Chart, as a conforming change, this final rule revises footnote 6 to add a reference to Belarus, so exporters, reexporters, and transferors are aware of the need to also review license requirements in § 746.8 for items listed in any ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL, as well as the exclusion for countries identified in supplement no. 3 to part 746.

Also on the Country Chart, this final rule adds a “X” in the nuclear nonproliferation (NP) column 1 for Belarus. A license is now required for exports and reexports to Belarus for NP:1 items under the EAR. Requiring a license for NP:1 reasons for Belarus will control these NP:1 items in the same manner as if they are destined for Russia, another Nuclear Suppliers Group member that BIS has determined warrants the imposition of an NP:1 license requirement under the EAR. BIS estimates that these revisions to impose a license requirement for NP:1 items for Belarus will result in an additional 10 license applications being submitted to BIS annually.

Lastly, on the Country Chart, this final rule adds a “X” in the NP column 2 for Belarus and Russia. A license is now required for exports and reexports to Belarus and Russia for NP:2



items under the EAR. Requiring a license for NP:2 reasons for Belarus and Russia is warranted to include as part of these sanctions against Belarus and Ukraine. This decision to impose an NP:2 license requirement also takes into account that both Belarus and Russia are now designated in Country Group D:2 as countries of concern for nuclear proliferation concern. BIS estimates that these revisions to impose a license requirement for NP:1 items for Belarus and Russia will result in an additional 60 license applications being submitted to BIS annually. As a conforming change for the imposition of a license requirement for NP:2 for Belarus and Russia, the final rule revises § 742.3(b)(4) to specify there is a case-by-case license review policy when the export, reexport or transfer (in-country) is in support of Russian manufactured nuclear power plants in Russia or other destinations will be reviewed on a case-by-case basis.

## *2. Commerce Country Groups Changes*

This final rule revises the Commerce Country Groups in supplement no. 1 to part 740 to remove the “X” in the column for Country Group A:4 Nuclear Suppliers Group. As a conforming revision, this final rule revises footnote 3 to supplement no. 1 to part 740 to add Belarus to specify that Group A:4 is a list of the Nuclear Suppliers Group countries, except for the People’s Republic of China, Russia, and Belarus.

This final rule also revises the Commerce Country Groups to add an “X” in the column for Country Group D:2 Nuclear and D:4 Missile Technology to reflect that Belarus is a country of concern for both nuclear proliferation and missile technology proliferation. The inclusion in these two Country Groups will mean additional restrictions in terms of the use of EAR license exceptions, as well as some additional licenses requirements that will be applicable, such as under § 744.3(a)(1) and (3), which has a prohibition for missile technology end use that applies to Country Group D:4 countries, which now include Belarus.

## *3. License Exception Changes*

This final rule amends License Exception CCD (§ 740.19), which was previously limited to Cuba and Russia (the latter added as part of the Russia Sanctions rule), by adding Belarus as an additional eligible destination.

In § 740.19(a) (Authorizations), and in the introductory text of paragraph (b) (Eligible commodities and software), this rule adds Belarus. BIS reminds exporters, reexporters, and transferors that the terms and conditions of License Exception CCD excludes non-consumer servers and for servers received under License Exception CCD those must be exported, reexported, and transferred (in-country) in accordance with the terms and conditions. Consumer servers for home or personal use that may be authorized under License Exception CCD are intended to make it harder for the Russian government to control the message getting to the Russian people.

Additionally, under paragraph (c)(1) (Organizations), this final rule revises paragraph (c)(1)(i), which identifies eligible end users for License Exception CCD, to add Belarus. The revision to paragraph (c)(1)(i) specifies that License Exception CCD is limited to the export, reexport, or transfer (in-country) of eligible commodities and software to and for the use of independent non-governmental organizations in Belarus. This final rule also adds the Belarusian Government to the exclusions under paragraph (c)(1)(ii) and adds a new paragraph (c)(1)(iv) (Ineligible Belarusian Government Officials) to exclude the specified officials from receiving commodities and software under License Exception CCD. Only the end users named as eligible in paragraph (c) may receive the commodities and software eligible under License Exception CCD.

This rule also makes changes to § 746.8(c) as it relates to the availability of License Exceptions AVS and ENC. This rule revises section 746.8(c)(5) to exclude any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from using License Exception AVS under § 740.15(a) and (b) of the EAR. BIS takes this measure concurrently with the U.S. Department of Transportation and its Federal Aviation Administration, which have issued orders blocking Russian aircraft and airlines from entering and using all domestic U.S. airspace.

This rule revises § 748.6(c)(6) to narrow the scope of License Exception ENC that is available to overcome the license requirement under § 748.6(a)(1) and (2). License Exception ENC, with its eligibility for purposes of § 746.8(c)(6) being narrowed in this rule and now being limited to only civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

#### *4. Part 742 (Control Policy—CCL Based Controls) Revisions*

In part 742, as conforming revisions to the license review policy of denial added under paragraph (b) to new § 746.8, this final rule makes revisions to license review policies in five sections: 742.2 (Proliferation of chemical and biological weapons), 742.3 (Nuclear nonproliferation), 742.4 (National security), 742.5 (Missile technology), and 742.6 (Regional stability).

Under § 742.2, this final rule revises the second sentence of paragraph (b)(4) to specify that a license review policy of denial applies to Belarus. This final rule revises two sentences to clarify that certain items, such as items to Russia and Belarus in support of U.S.-Russia and U.S.-Belarusian civil space cooperation activities, are reviewed on a case-by-case basis as specified under § 746.8(b).

In both §§ 742.3 and 742.5, this final rule revises the second sentence of paragraph (b)(4) to specify that a license review policy of denial applies to Belarus. This final rule revises one sentence in §§ 742.3 and 742.5 to refer to Belarus, thereby clarifying that certain items, such as

items to Russia and Belarus in support of U.S.-Russia and U.S.-Belarusian civil space cooperation activities, are reviewed on a case-by-case basis as specified under § 746.8(b).

Under § 742.4, this final rule also revises paragraph (b)(9), which states that all applications for Russia will be reviewed in accordance with the licensing policy set forth in § 746.8(b), to add a reference to Belarus, which is now also subject to the license review policy.

Under § 742.6, this final rule revises paragraph (b)(9), to specify that all applications for Belarus will be reviewed in accordance with the licensing policy set forth in § 746.8(b), as well as being reviewed in accordance with the foreign policy interest of promoting the observance of human rights throughout the world and consistent with United States arms embargo policies in § 126.1 of the ITAR (22 CFR 126.1).

#### *5. Change in scope of license requirements for ECCN 5A992 and 5D992*

In § 746.8, this rule revises the paragraph (a)(1) introductory text to add an exclusion from the license requirements of paragraphs (a)(1) and (2). The rule revises paragraph (a) introductory text that for purposes of paragraphs (a)(1) and (2), commodities and software classified under ECCNs 5A992 or 5D992 do not require a license to or within Russia or Belarus for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

#### **D. Changes to ‘Military End Use’ and ‘End User’ Controls for Belarus**

This final rule revises the scope of the ‘military end use’ and ‘military end user’ controls under § 744.21 of the EAR to reflect the imposition of such controls for Belarus. Additionally,

these new controls will apply broadly to all items “subject to the EAR” (the same scope of items that applies to Russia). As a result of the expanded controls for Belarus for ‘military end users’ and ‘military end uses,’ BIS is revising the Entity List in supplement No. 4 to part 744 to make conforming changes. Accordingly, this final rule revises § 744.21 as follows to reflect the expanded ‘military end use’ and ‘military end user’ controls for Belarus:

This final rule revises the heading of § 744.21 to add Belarus.

In paragraph (a), this final rule revises the first sentence to add a reference to Belarus after Russia to specify that the same scope of license requirements and exclusions will apply to Belarus. This final rule will require a license for all items subject to the EAR for Belarusian ‘military end use’ and ‘military end users’ except for food or medicine designated as EAR99. As revised by this rule, the prohibition is broader for Belarus (and Russia) than for the other countries subject to the requirements of § 744.21.

BIS is revising paragraph (b)(1) (‘Military End-User’ (MEU) List) to provide guidance for Belarusian entities placed on the Entity List based on § 744.21(b). This final rule specifies that such entities may be added to supplement No. 4 of part 744 – the Entity List –and are subject to license requirements that apply to all items “subject to the EAR” except for food or medicine designated as EAR99.

Under paragraph (b)(1)(ii) (License requirements for parties to the transaction), this final rule also revises paragraph (b)(1)(ii) to add Belarus to the sentence that clarifies that, for purposes of Belarus (as well as Russia), a license requirement applies to all items subject to the EAR for entities listed in supplement no. 4 to part 744 (the Entity List) pursuant to § 744.21 when such an entity is a party to the transaction as described in § 748.5(c) through (f) of the EAR. These changes are necessary because, with the publication of this final rule, the license requirements for Belarus, along with those for Russia, are broader than for the other four countries.

Under paragraph (e) (License review standards), this final rule revises one sentence to specify that the license review policy for applications to or within Belarus subject to the license requirements described in paragraph (a) will be a policy of denial. This policy is identical to the policy that applies to Russia.

BIS estimates that these changes to § 744.21 will result in an additional 20 license applications being submitted to BIS annually.

#### **E. Changes to military-intelligence end uses or end users controls for Belarus**

This rule also adds Belarus to the countries subject to the ‘military-intelligence end use’ and ‘military-intelligence end user’ (MIEU) restrictions in § 744.22 of the EAR. In addition to the license requirements for items specified on the CCL, § 744.22 prohibits the export, reexport, or transfer (in-country) without a license of items subject to the EAR to Burma, China, the Russian Federation, Venezuela, or a country listed in Country Group E:1 or E:2. With the publication of this rule, Belarus is now added to the countries subject to this license requirement. Such exports, reexports, or transfers (in-country) require a license if, at the time of the export, reexport, or transfer (in-country), the exporter, reexporter, or transferor (in-country) has “knowledge,” as defined in § 772.1 of the EAR that the item is intended, entirely or in part, for a ‘military-intelligence end use,’ or ‘military-intelligence end user,’ in Belarus, Burma, Cambodia, China, the Russian Federation, Venezuela or the countries listed in Country Group E:1 or E:2. Applications submitted for the export or reexport to Belarus, or transfer within Belarus, of an EAR item under this section will be reviewed with a presumption of denial.

This final rule as a conforming change also revises Section 736.2(b)(7)(i)(5) to add a reference to Belarus.

This rule also adds a new paragraph (f)(2)(x) for Belarus to identify The Main Intelligence Directorate of the General Staff of the Armed Forces of Belarus as a ‘military-intelligence end user.’

With this amendment to § 744.22 of the EAR, BIS is also revising § 744.6(b)(5) of the EAR to restrict specific activities of “U.S. persons” in connection with a ‘military-intelligence end use’ or ‘military-intelligence end user’ in Belarus. BIS estimates that these new controls under §§ 744.6(b)(5) and 744.21 will result in an additional 5 license applications being submitted to BIS annually.

#### **F. Entity List Changes for Belarusian Entities**

Under § 744.11(b) (Criteria for revising the Entity List), entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States, and those acting on behalf of such entities, may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 provide an illustrative list of activities that could be considered contrary to the national security or foreign policy interests of the United States. The Entity List in supplement no. 4 to part 744 identifies the entities so designated. The EAR imposes additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) when an entity that is listed on the Entity List is a party to the transaction as described in § 748.5(c) through (f) of the EAR. The license review policy for each listed entity is identified in the “License Review Policy” column on the Entity List, and the impact on the availability of license exceptions is described in the relevant *Federal Register* document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR. As discussed further below, the two entities being added in this rule will receive a footnote 3 designation because the ERC has determined they are ‘military end users’ in accordance with §744.21.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote. Decisions on Entity entries may also be made by higher-level officials of agencies represented on the ERC.

### *1. Additions to the Entity List*

This rule implements the decision of the ERC to add two entities—JSC Integral and The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus and all operating units wherever located. The entry for the Ministry of Defence of the Republic of Belarus includes the national armed services (army or air force), as well as the national guard and national police, government intelligence or reconnaissance organizations of the Republic of Belarus. These two entities will be added to the Entity List under the destination Belarus. These entities will be added on the basis of §§ 744.11(b) and 744.21 and will be designated with footnote 3 because they are ‘military end users.’ Both entities are being added to the Entity List for being involved in activities that are contrary to U.S. national security and foreign policy interests, which include but are not limited to being closely aligned with the Russian military and helping to facilitate Belarus’s substantial enabling of Russia’s further invasion of Ukraine. Pursuant to §§ 744.11(b)(5) and 744.21(e) and footnote 3 of the EAR, the ERC determined that the conduct of the above-described two entities raise sufficient concerns that prior review, via the imposition of a license requirement for exports, reexports, or transfers (in-country), of all items subject to the EAR. Moreover, as footnote 3 provides, a license is required to reexport, export from abroad, or transfer (in-country) to or within any destination any foreign-produced item subject to the EAR under § 734.9(g) of the EAR other than food or medicine designated as



EAR99. As provided in § 744.21(e), license applications will be reviewed under a policy of denial. No EAR license exceptions are available for these entities.

For the reasons described above, this final rule adds the JSC Integral and The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus, to the Entity List.

## **BELARUS**

- JSC Integral; *and*
- The Ministry of Defence of the Republic of Belarus, including the Reserve Forces (Army and Air Force), as well as the National Guard and National Police, Government Intelligence or Reconnaissance Organizations of the Republic of Belarus.

The acronym “a.k.a.,” which is an abbreviation of “also known as,” is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the Entity List.

### *2. Revisions to the Entity List*

This rule implements a modification to eight existing entries for “Argut OOO,” “International Center for Quantum Optics and Quantum Technologies LLC,” “JSC Central Research Institute of Machine Building (JSC TsNIIMash),” “Kamensk-Uralsky Metallurgical Works J.S. Co.,” “Oboronprom OJSC,” “Promtech-Dubna, JSC,” “Radiotechnical and Information Systems (RTI) Concern,” *and* “SP Kvant” under Russia that were added to the Entity List in the Russia Sanctions rule. Specifically, this rule modifies the entry for these eight entities to remove the exclusion for ECCN 5A992.c and 5D992.c unless for Russian or Belarusian “government end users” and Russian or Belarusian state-owned enterprises (SoEs).

### *Savings Clause*

For the sanctions against Belarus added under § 746.8(a)(2) and (3), shipments of items removed from eligibility for a License Exception or reexport or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on March 26, 2022, pursuant to actual orders for reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or reexport or transfer (in-country) without a license (NLR).

For all other changes being made in this final rule, shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on [INSERT DATE OF FILING FOR PUBLIC INSPECTION], pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

### **Export Control Reform Act of 2018**

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. Sections 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule. To the extent it applies to certain activities that are the subject of this rule, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (codified, as amended, at 22 U.S.C. Sections 7201-7211) also serves as authority for this rule.

## Rulemaking Requirements

1. This final rule is not a “significant regulatory action” because it “pertain[s]” to a “military or foreign affairs function of the United States” under sec. 3(d)(2) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves three collections of information. BIS believes there will be minimal burden changes to two of these collections -- Five-Year Records Retention Requirement for Export Transactions and Boycott Actions (OMB control number 0694-0096) and Automated Export System (AES) Program (OMB control number 0607-0152).

However, “Multi-Purpose Application (OMB control number 0694-0088 will exceed existing estimates currently associated with this collection as the respondent burden will increase the estimated number of submissions by 215 for license applications submitted annually to BIS. BIS estimates the burden hours associated with this collection would increase by 110 (*i.e.*, 215 applications × 30.6 minutes per response) for a total estimated cost increase of \$3,300 (*i.e.*, 110 hours × \$30 per hour). The \$30 per hour cost estimate for OMB control number 0694–0088 is consistent with the salary data for export compliance specialists currently available through glassdoor.com (glassdoor.com estimates that an export compliance specialist makes \$55,280 annually, which computes to roughly \$26.58 per hour). Consistent with 5 CFR 1320.13, BIS requested, and OMB has approved, emergency clearance for an increase in the burden estimate under due to the additional license requirements imposed by this rule.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)).

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

## **List of Subjects**

### **15 CFR Part 734**

Administrative practice and procedure, Exports, Inventions and patents, Research,  
Science and technology.

### **15 CFR Parts 736 and 738**

Exports.

## **15 CFR Part 740**

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

## **15 CFR Part 742**

Exports, Terrorism.

## **15 CFR Part 744**

Exports, Reporting and recordkeeping requirements, Terrorism.

## **15 CFR Part 746**

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 734, 736, 738, 740, 742, 744, and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

### **PART 734 – SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS**

1. The authority citation for 15 CFR part 734 continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

2. Section 734.9 is amended by revising paragraphs (f) and (g) to read as follows:

**§ 734.9 Foreign-Direct Product (FDP) Rules.**

\* \* \* \* \*

(f) *Russia/Belarus FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (f)(1) of this section and the destination scope in paragraph (f)(2) of this section. See § 746.8 of the EAR for license requirements, license review policy, and license exceptions applicable to foreign-produced items that are subject to the EAR pursuant to this paragraph (f).

(1) *Product scope of Russia/Belarus FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (f)(1)(i) or (ii) of this section.

(i) *“Direct product” of “technology” or “software.”* A foreign-produced item meets the product scope of this paragraph (f)(1)(i) if the foreign-produced item is not designated EAR99 and is a “direct product” of U.S.-origin “technology” or “software” subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL; or

(ii) *“Direct product” of a complete plant or ‘major component’ of a plant.* A foreign-produced item, meets the product scope of this paragraph (f)(1)(ii) if the foreign-produced item is not designated EAR99 and is produced by any plant or ‘major component’ of a plant that is located outside the United States, when the plant or ‘major component’ of a plant, whether made in the United States or a foreign country, itself is a “direct product” of U.S.-origin “technology” or “software” subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

(2) *Destination scope of the Russia/Belarus FDP rule.* A foreign-produced item meets the destination scope of this paragraph (f)(2) if there is “knowledge” that the foreign-produced item is destined to Russia or Belarus or will be incorporated into or used in the “production” or “development” of any “part,” “component,” or “equipment” not designated EAR99 and produced in or destined to Russia or Belarus.

(g) *Russia/Belarus-Military End User FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (g)(1) of this section and the end-user scope in paragraph (g)(2) of this section. See § 746.8 of the EAR for license requirements, license review policy, and license exceptions applicable to foreign-produced items that are subject to the EAR pursuant to this paragraph (g).

(1) *Product Scope of Russia/Belarus-Military End User FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (g)(1)(i) or (ii) of this section.

(i) *“Direct product” of “technology” or “software.”* A foreign-produced item meets the product scope of this paragraph (g)(1)(i) if the foreign-produced item is a “direct product” of “technology” or “software” subject to the EAR and specified in any ECCN in product groups D or E in any categories of the CCL; or

(ii) *“Direct product” of a complete plant or ‘major component’ of a plant.* A foreign-produced item meets the product scope of this paragraph (g)(1)(ii) if the foreign-produced item is produced by any plant or ‘major component’ of a plant that is located outside the United States, when the plant or ‘major component’ of a plant, whether made in the United States or a foreign country, itself is a “direct product” of U.S.-origin “technology” or “software” subject to the EAR that is specified in any ECCN in product groups D or E in any categories of the CCL.

(2) *End-user scope of the Russia/Belarus- ‘Military End User’ FDP rule.* A foreign-produced item meets the end-user scope of this paragraph (g)(2) if there is “knowledge” that:

(i) *Activities involving footnote 3 designated entities.* The foreign-produced item will be incorporated into, or used in the “production” or “development” of any “part,” “component,” or “equipment” produced, purchased, or ordered by any entity with a footnote 3 designation in the license requirement column of the Entity List in Supplement No. 4 to part 744 of the EAR; or

(ii) *Footnote 3 designated entities as transaction parties.* Any entity with a footnote 3 designation in the license requirement column of the Entity List in Supplement No. 4 to part 744 of the EAR is a party to any transaction involving the foreign-produced item, *e.g.*, as a “purchaser,” “intermediate consignee,” “ultimate consignee,” or “end-user.”

**Note 3 to paragraph (g).** A ‘military end user’ for purposes of paragraph (g) is any entity listed on the Entity List in supplement no. 4 to part 744 of the EAR with a footnote 3 designation.

## **PART 736 – GENERAL PROHIBITIONS**

3. The authority citation for 15 CFR part 736 continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021); Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).



4. Section 736.2 is amended by revising paragraph (b)(7)(i)(A)(5) to read as follows:

**§ 736.2 General prohibitions and determination of applicability.**

\* \* \* \* \*

(b) \* \* \*

(7) \* \* \*

(i) \* \* \*

(A) \* \* \*

(5) A ‘military-intelligence end use’ or a ‘military-intelligence end user,’ as defined in § 744.22(f) of the EAR, in Belarus, Burma, the People’s Republic of China, Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2.

\* \* \* \* \*

**PART 738 – COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART**

5. The authority citation for 15 CFR part 738 continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

6. Supplement no. 1 to part 738 is amended by revising the entries for “Belarus” and “Russia” and footnote 6 to read as follows:

**Supplement No. 1 to Part 738 – Commerce Country Chart**

**[Reason for control]**

Countries	Chemical and biological weapons			Nuclear nonproliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
* * * * *																
Belarus <sup>6</sup>	X	X	X	X	X	X	X	X	X	X		X	X			
* * * * *																
Russia <sup>6</sup>	X	X	X	X	X	X	X	X	X	X		X	X			
* * * * *																

\* \* \* \* \*

<sup>6</sup> See § 746.5 of the EAR for additional license requirements under the Russian Industry Sector Sanctions for ECCNs 0A998, 1C992, 3A229, 3A231, 3A232, 6A991, 8A992, and 8D999 and items identified in supplement no. 2 to part 746 of the EAR. See § 746.8 of the EAR for Sanctions against Russia and Belarus, including additional license requirements for items listed in any ECCN in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

\* \* \* \* \*

## **PART 740 – LICENSE EXCEPTIONS**

7. The authority citation for 15 CFR part 740 continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

8. Section 740.2 is amended by revising paragraph (a)(6) to read as follows:

### **§ 740.2 Restrictions on all License Exceptions.**

(a) \* \* \*

(6) The export or reexport is to a sanctioned destination (Cuba, Iran, North Korea, Syria, Crimea region of Ukraine, and the so-called Donetsk People’s Republic (DNR) and Luhansk People’s Republic (LNR) regions of Ukraine) or a license is required based on a limited sanction (Russia or Belarus) unless a license exception or portion thereof is specifically listed in the license exceptions paragraph pertaining to a particular sanctioned country in part 746 of the EAR.

\* \* \* \* \*

9. Section 740.19 is amended by revising paragraphs (a), (b) introductory text, and (c) to read as follows:

### **§ 740.19 Consumer Communications Devices (CCD).**

(a) *Authorizations.* This section authorizes the export, reexport, or transfer (in-country) of commodities and software to Cuba, Russia, and Belarus subject to the requirements stated in this section. This section does not authorize U.S. owned or controlled entities in third countries to engage in reexports of foreign produced commodities to Cuba for which no license would be issued by the Department of the Treasury pursuant to 31 CFR 515.559.

(b) *Eligible commodities and software.* Commodities and software in paragraphs (b)(1) through (17) of this section are eligible for export, reexport, or transfer (in-country) under this section to and within Cuba, Russia, and Belarus.

\* \* \* \* \*

(c) *Eligible and ineligible end users—(1) Organizations.* (i) The license exception in this section may be used to export, reexport, or transfer (in-country) eligible commodities and software to and for the use of independent non-governmental organizations in Cuba, Russia, or Belarus.

(ii) The Cuban Government, the Cuban Communist Party, the Russian Government, the Belarusian Government, and organizations administered or controlled by the Cuban Government, the Cuban Communist Party, the Russian Government, or the Belarusian Government are not eligible end users.

(iii) [Reserved]

(2) *Individuals.* The license exception in this section may be used to export, reexport, or transfer (in-country) eligible commodities and software to and for the use of individuals other than the following:

(i) *Ineligible Cuban Government officials.* Ministers and Vice-Ministers; members of the Council of State; members of the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; or members and employees of the Supreme Court (Tribuno Supremo Nacional).

(ii) *Ineligible Cuban Communist Party officials.* Members of the Politburo.

(iii) *Ineligible Russian Government officials.* The President, Prime Minister, and Deputy Prime Ministers; Federal Ministers; Chairman, Deputy Chairman, and Secretary of the Security Council; members and employees of the Federal Assembly (the State Duma and the Federation Council); members and employees of the Supreme Court and the Constitutional Court; Chief and all employees of the General Staff of the armed forces; employees of the Ministry of Defence; Director and employees of the Federal Security Service, Director and employees of the Foreign Intelligence Service; employees of the Ministry of the Interior; employees of state committees, chief editors, editors and deputy editors of Russian state-run media organizations and programs,

including newspapers, television, and radio; offices, services, agencies and other entities organized under or reporting to the federal government.

(iv) *Ineligible Belarusian Government officials.* Alyaksandr Lukashenko; Prime Minister and Deputy Prime Ministers; members of the Council of Ministers; members of the Security Council of Belarus; members and employees of the National Assembly of the Republic of Belarus; members and employees of the Supreme Court and the Constitutional Court; Chief and all employees of the General Staff of the armed forces; employees of the Ministry of Defense, including the National Armed Services (Army and Air Force), the National Guard and National Police; and employees of Government Intelligence or Reconnaissance Organizations of the Republic of Belarus, including the Director and employees of the State Security Committee (BKGB); employees of the Ministry of Internal Affairs; employees of state committees; employees of the State Authority for the Military Industry; employees of the Border Control Committee of the Republic of Belarus; chief editors, editors and deputy editors of Belarusian state-run media organizations and programs, including newspapers, television, and radio; offices, services, agencies and other entities organized under or reporting to the federal government.

10. Supplement no. 1 to part 740 is amended by revising the entry for “Belarus” and footnote 3 in the Country Group A table and the entry for “Belarus” in the Country Group D table to read as follows:

**SUPPLEMENT NO. 1 TO PART 740—COUNTRY GROUPS**

**COUNTRY GROUP A**

<b>Country</b>	<b>[A:1] Wassenaar Participating States<sup>1</sup></b>	<b>[A:2] Missile Technology Control Regime<sup>2</sup></b>	<b>[A:3] Australia Group</b>	<b>[A:4] Nuclear Suppliers Group<sup>3</sup></b>	<b>[A:5]</b>	<b>[A:6]</b>
*****						
Belarus						
*****						

<sup>1</sup>Country Group A:1 is a list of the Wassenaar Arrangement Participating States, except for Malta, Russia and Ukraine.

<sup>2</sup>Country Group A:2 is a list of the Missile Technology Control Regime countries, except for Russia.

<sup>3</sup>Country Group A:4 is a list of the Nuclear Suppliers Group countries, except for the People's Republic of China (PRC), Russia, and Belarus.

\* \* \* \* \*

#### **COUNTRY GROUP D**

<b>Country</b>	<b>[D:1] National Security</b>	<b>[D:2] Nuclear</b>	<b>[D:3] Chemical &amp; Biological</b>	<b>[D:4] Missile Technology</b>	<b>[D:5] U.S. Arms Embargoed Countries<sup>1</sup></b>
*****					
Belarus	X	X	X	X	X
*****					

<sup>1</sup> *Note to Country Group D:5*: Countries subject to U.S. arms embargoes are identified by the State Department through notices published in the *Federal Register*. The list of arms embargoed destinations in this table is drawn from 22 CFR 126.1 and State Department *Federal Register* notices related to arms embargoes (compiled at [www.pmddtc.state.gov/embargoed\\_countries/index.html](http://www.pmddtc.state.gov/embargoed_countries/index.html)) and will be amended when the State Department publishes subsequent notices. If there are any discrepancies between the list of countries in this table and the countries identified by the State Department as subject to a U.S. arms embargo (in the *Federal Register*), the State Department's list of countries subject to U.S. arms embargoes shall be controlling.

\* \* \* \* \*

## **PART 742 – CONTROL POLICY – CCL BASED CONTROLS**

11. The authority citation for 15 CFR part 742 continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

12. Section 742.2 is amended by revising paragraph (b)(4) to read as follows:

### **§ 742.2 Proliferation of chemical and biological weapons.**

\* \* \* \* \*

(b) \* \* \*



(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). When such items are destined to Russia or Belarus, license applications will be reviewed under a policy of denial. However, exports and reexports of items to Russia or Belarus in support of U.S.-Russia or U.S.-Belarus civil space cooperation activities-will be reviewed on a case-by-case basis, as well as certain other certain specified activities specified in § 746.8 of the EAR. See § 746.8(b).

\* \* \* \* \*

13. Section 742.3 is amended by revising the second and third sentences of paragraph (b)(4) to read as follows:

**§ 742.3 Nuclear nonproliferation.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \* When such items are destined to Russia or Belarus, license applications will be reviewed under a policy of denial. However, exports and reexports of items to Russia or Belarus in support of U.S.-Russia or U.S.-Belarus civil space cooperation activities or in support of Russian manufactured nuclear power plants in Russia or other destinations will be reviewed on a case-by-case basis. \* \* \*

\* \* \* \* \*

14. Section 742.4 is amended by revising paragraph (b)(9) to read as follows:

**§ 742.4 National security.**

\* \* \* \* \*

(b) \* \* \*

(9) For the Russian Federation and Belarus, all applications will be reviewed in accordance with the licensing policy set forth in § 746.8(b) of the EAR.

\* \* \* \* \*

15. Section 742.5 is amended by revising the second, third, and fourth sentences of paragraph (b)(5) to read as follows:

**§ 742.5 Missile technology.**

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \* When such items are destined to Russia or Belarus, license applications will be reviewed under a policy of denial. However, exports and reexports of items to Russia or Belarus in support of U.S.-Russia or U.S.-Belarus civil space cooperation activities-will be reviewed on a case-by-case basis. See § 746.8(b) of the EAR.

\* \* \* \* \*

16. Section 742.6 is amended by revising paragraph (b)(9) to read as follows:

**§ 742.6 Regional stability.**

\* \* \* \* \*

(b) \* \* \*

(9) *Russia or Belarus.* Applications to export or reexport items described in paragraph (a)(7) of this section will be reviewed pursuant to the licensing policy set forth in § 746.8(b) of the EAR, as well as the foreign policy interest of promoting the observance of human rights throughout the

world and consistent with United States arms embargo policies in § 126.1 of the ITAR (22 CFR 126.1).

\* \* \* \* \*

## **PART 744 – END-USE AND END-USER CONTROLS**

17. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 15, 2021, 86 FR 52069 (September 17, 2021); Notice of November 10, 2021, 86 FR 62891 (November 12, 2021).

18. Section 744.6 is amended by revising paragraphs (b)(5) to read as follows:

### **§ 744.6 Restrictions on specific activities of “U.S. persons.”**

\* \* \* \* \*

(b) \* \* \*

(5) A 'military-intelligence end use' or a 'military-intelligence end user,' as defined in § 744.22(f), in Belarus, Burma, Cambodia, the People's Republic of China, Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

\* \* \* \* \*

19. Section 744.21 is revised to read as follows:

**§ 744.21 Restrictions on certain ‘military end use’ or ‘military end user’ in Belarus, Burma, Cambodia, the People’s Republic of China, the Russian Federation, or Venezuela.**

(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to this part), you may not export, reexport, or transfer (in-country) any item subject to the EAR listed in supplement no. 2 to this part to Burma, Cambodia, the People’s Republic of China (China), or Venezuela, or any item “subject to the EAR,” without a license if, at the time of the export, reexport, or transfer (in-country), you have “knowledge,” as defined in § 772.1 of the EAR, that the item is intended, entirely or in part, for a ‘military end use,’ as defined in paragraph (f) of this section, or a ‘military end user,’ as defined in paragraph (g) of this section, in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela.

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the *Federal Register*, or through a separate notification published in the *Federal Register*, that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a ‘military end use’ or ‘military end user’ in Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela. Specific notice will be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by written notice within two working days signed by the Deputy Assistant Secretary for Export Administration or the Deputy Assistant Secretary’s designee. The absence of BIS notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(1) *‘Military End-User’ (MEU) List and Entity List.* BIS may inform and provide notice to the public that certain entities are subject to the additional prohibition described under this paragraph (b) following a determination by the End-User Review Committee (ERC) that a specific entity is a ‘military end user’ pursuant to this section and therefore any exports, reexports, or transfers (in-country) to that entity represent an unacceptable risk of use in or diversion to a ‘military end use’ or ‘military end user’ in Belarus, Burma, Cambodia, China, the Russian Federation or Venezuela. Such entities in Burma, Cambodia, China, or Venezuela may be added to supplement no. 7 to this part – ‘Military End-User’ (MEU) List. Such entities in the Russian Federation or Belarus may also be added to supplement No. 4 to this part – Entity List. License requirements for listed MEU are described in paragraph (b)(1)(ii) of this section. The listing of entities under supplement no. 7 or 4 to this part is not an exhaustive listing of ‘military end users’ for purposes of this section. Exporters, reexporters, and transferors are responsible for determining whether transactions with entities not listed on supplement no. 7 or 4 to this part are subject to a license requirement under paragraph (a) of this section. The process in this paragraph (b)(1) for placing entities on the MEU List and Entity List is only one method BIS may use to inform exporters, reexporters, and transferors of license requirements under this section.

(i) *End-User Review Committee (ERC).* The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the MEU List and Entity List. Decisions by the ERC for purposes of the MEU List and Entity List will be made following the procedures identified in this section and in supplement no. 5 to this part - Procedures for End-User Review Committee Entity List and ‘Military End User’ (MEU) List Decisions.

(ii) *License requirement for parties to the transaction.* Consistent with paragraph (a) of this section, a license is required for the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 2 to this part when an entity that is listed on the MEU

List under Burma, Cambodia, the People's Republic of China (China), or Venezuela is a party to the transaction as described in § 748.5(c) through (f) of the EAR. Consistent with paragraph (a) of this section, a license is required for the export, reexport, or transfer (in-country) of any item subject to the EAR except for food or medicine designated as EAR99 to Russia or to Belarus when an entity that is listed on the Entity List under Russia or Belarus pursuant to this section is a party to the transaction as described in § 748.5(c) through (f) of the EAR.

*(2) Requests for removal from or modification of 'Military End User' (MEU) List and Entity List.*

Any entity listed on the MEU List or Entity List pursuant to this section may request that its listing be removed or modified. All such requests, including reasons therefor, must be in writing and sent to: Chair, End-User Review Committee, Bureau of Industry and Security, U.S.

Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Room 3886, Washington, DC 20230; or by email at [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov). In order for an entity listed on the MEU List or the Entity List pursuant to this section to petition BIS for their removal or modification, as applicable, the entity must address why the entity is not a 'military end user' for purposes of this section.

(i) *Review.* The ERC will review such requests for removal or modification in accordance with the procedures set forth in supplement no. 5 to this part.

(ii) *BIS action.* The Deputy Assistant Secretary for Export Administration will convey the decision on the request to the requester in writing. That decision will be the final agency action on the request.

(c) *License exception.* Despite the prohibitions described in paragraphs (a) and (b) of this section, you may export, reexport, or transfer (in-country) items subject to the EAR under the provisions of License Exception GOV set forth in §740.11(b)(2)(i) and (ii) of the EAR.

(d) *License application procedure.* When submitting a license application pursuant to this section, you must state in the “additional information” block of the application that “this application is submitted because of the license requirement in this section (Restrictions on a ‘Military End Use’ or ‘Military End User’ in Belarus, Burma, Cambodia, the People’s Republic of China, the Russian Federation, or Venezuela).” In addition, either in the additional information block of the application or in an attachment to the application, you must include all known information concerning the ‘military end use’ and ‘military end user(s)’ of the item(s). If you submit an attachment with your license application, you must reference the attachment in the “additional information” block of the application.

(e) *License review standards.* (1) Applications to export, reexport, or transfer (in-country) items to or within Burma, Cambodia, the People’s Republic of China (China), or Venezuela described in paragraph (a) of this section will be reviewed with a presumption of denial. Applications to export, reexport, or transfer (in-country) items to or within Russia or Belarus described in paragraph (a) of this section will be reviewed with a policy of denial.

(2) Applications may be reviewed under chemical and biological weapons, nuclear nonproliferation, or missile technology review policies, as set forth in §§ 742.2(b)(4), 742.3(b)(4), and 742.5(b)(4) of the EAR, if the end use may involve certain proliferation activities.

(3) Applications for items requiring a license for any reason that are destined to Belarus, Burma, Cambodia, China, the Russian Federation, or Venezuela for a ‘military end use’ or ‘military end user’ also will be subject to the review policy stated in paragraph (e)(1) of this section.

(f) *Military end use.* In this section, ‘military end use’ means: incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations); incorporation into items classified under Export Control Classification Numbers (ECCNs) ending in “A018” or under “600 series” ECCNs; or any item that supports or contributes to the operation, installation, maintenance, repair, overhaul, refurbishing, “development,” or “production,” of military items described on the USML, or items classified under ECCNs ending in “A018” or under “600 series” ECCNs.

(g) *Military end user.* In this section, the term ‘military end user’ means the national armed services (army, navy, marine, air force, or coast guard), as well as the national guard and national police, government intelligence or reconnaissance organizations (excluding those described in § 744.22(f)(2)), or any person or entity whose actions or functions are intended to support ‘military end uses’ as defined in paragraph (f) of this section.

(h) *Effects on contracts.* Transactions involving the export, reexport, or transfer (in country) of items to or within Venezuela are not subject to the provisions of this section if the contracts for such transactions were signed prior to November 7, 2014.

20. Section 744.22 is amended by revising paragraphs (a), (b), and (f)(2) introductory text and adding paragraph (f)(2)(x) to read as follows:

**§ 744.22 Restrictions on exports, reexports, and transfers (in-country) to certain military-intelligence end uses or end users.**



(a) *General prohibition.* In addition to the license requirements for items specified on the Commerce Control List (CCL) (supplement no. 1 to part 774 of the EAR), you may not export, reexport, or transfer (in-country) any item subject to the EAR without a license from BIS if, at the time of the export, reexport, or transfer (in-country), you have “knowledge” that the item is intended, entirely or in part, for a 'military-intelligence end use' or a 'military-intelligence end user' in Belarus, Burma, Cambodia, the People's Republic of China (China), Russia, or Venezuela; or a country listed in Country Groups E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

(b) *Additional prohibition on those informed by BIS.* BIS may inform you either individually by specific notice, through amendment to the EAR published in the Federal Register, or through a separate notification published in the Federal Register, that a license is required for specific exports, reexports, or transfers (in-country) of any item subject to the EAR because there is an unacceptable risk of use in, or diversion to, a 'military-intelligence end use' or a 'military-intelligence end user' in Belarus, Burma, Cambodia, China, Russia, or Venezuela; or a country listed in Country Group E:1 or E:2 (see supplement no. 1 to part 740 of the EAR).

\* \* \* \* \*

(f) \* \* \*

(2) 'Military-intelligence end user' means any intelligence or reconnaissance organization of the armed services (army, navy, marine, air force, or coast guard); or national guard. For license requirements applicable to other government intelligence or reconnaissance organizations in Belarus, Burma, Cambodia, China, Russia, or Venezuela, see § 744.21. Military-intelligence end users subject to the license requirements set forth in this section include, but are not limited to, the following:

\* \* \* \* \*

(x) *Belarus*. The Main Intelligence Directorate of the General Staff of the Armed Forces of Belarus.

21. Supplement No. 4 to part 744 is amended as follows:

a. Under Belarus by adding in alphabetical order entries for “JSC Integral” and “The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus”; and

b. Under RUSSIA by revising the entries for “Argut OOO,” “International Center for Quantum Optics and Quantum Technologies LLC,” “JSC Central Research Institute of Machine Building (JSC TsNIIMash),” “Kamensk-Uralsky Metallurgical Works J.S. Co.,” “Oboronprom OJSC,” “Promtech-Dubna, JSC,” “Radiotechnical and Information Systems (RTI) Concern,” and “SP Kvant”.

The additions and revisions read as follows:

#### Supplement No. 4 to Part 744 – Entity List

\* \* \* \* \*

Country	Entity	License requirement	License review policy	Federal Register Citation
*****				
BELARUS	*****			
	JSC Integral, a.k.a., the following two aliases: -OAO Integral; <i>and</i> -Joint-Stock Company Integral – Holding Managing Company.  121A, Kazintsa I.P. Str., Minsk, 220108, Belarus; <i>and</i> 12 Korzhenevskogo Str., Minsk, 220108, Belarus; <i>and</i> 137 Brestskaya Str., Pinsk, Brest region, 225710, Belarus.	All items subject to the EAR except for food or medicine designated as EAR99, or ECCN 5A992.c and 5D992.c unless for Belarusian “government end users” and Belarusian state-owned enterprises (SoEs) to Belarus. (See §§ 734.9(g), <sup>3</sup>	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

		746.8(a)(3), and 744.21(b) of the EAR) This license requirement may be overcome by License Exception GOV under § 740.11(b)(2) and (e).		
	*****			
	The Ministry of Defence of the Republic of Belarus, including the Armed Forces of Belarus and all operating units wherever located. This includes the national armed services (army and air force), as well as the national guard and national police, government intelligence or reconnaissance organizations of the Republic of Belarus. All addresses located in Belarus.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	*****			
*****				
RUSSIA	*****			
	Argut OOO, 6 Mnevniki str end 6 fl, Moscow 123308, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022-04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22.  87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
	*****			
	International Center for Quantum Optics and Quantum Technologies LLC, a.k.a. the following two aliases: -Russian Quantum Center <u>and</u> -RQC.  Business-center “Ural,” 100 Novaya Street, Skolkovo, Moscow, 143025, Russia; <u>and</u> 30 Bolshoy Blvd, Bldg 1, Moscow, 121205, Russia; <u>and</u>	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022-04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22.  87 FR [INSERT FR PAGE NUMBER AND

	100A Novaya Street, Skolkovo, Odintsovsky District, Moscow, 143025, Russia.			DATE OF PUBLICATION IN THE FEDERAL REGISTER].
*****				
	JSC Central Research Institute of Machine Building (JSC TsNIIMash), Pionerskaya Street, 4, korpus 22, Moskovskaya obl., Korolov 141070, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022-04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
*****				
	Kamensk-Uralsky Metallurgical Works J.S. Co., 5 Zavodskaya St., Kamensk Uralsky, 623405 Sverdlovsk region, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022-04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
*****				
	Oboronprom OJSC, 29/141 Vereiskaya Street, Moscow, 121357 Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022-04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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	Promtech-Dubna, JSC, Programmistov st., 4, room 364, Dubna, Moscow 141983, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022- 04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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	Radiotechnical and Information Systems (RTI) Concern, 127083, Moscow, 8 marta, 10/1 Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022- 04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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	SP Kvant, a.k.a., the follow three aliases: -Kvant LLC; -Limited Liability Company Joint Venture Quantum Technologies; <i>and</i> -Joint Venture Quantum.  D. 46, Etazh 6, pom. 600K, Shosse Varshavskoe, Moscow, 115230, Russia.	All items subject to the EAR except for food or medicine designated as EAR99. (See §§ 734.9(g), <sup>3</sup> 746.8(a)(3), and 744.21(b) of the EAR)	Policy of denial. See §§ 746.8(b) and 744.21(e).	87 FR [INSERT FR PAGE NUMBER FROM FR 2022- 04300, SCHEDULED TO PUBLISH 3/3/2022], 3/3/22. 87 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].
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<sup>3</sup> For this entity, “items subject to the EAR” includes foreign-produced items that are subject to the EAR under § 734.9(g) of the EAR. See §§ 746.8 and 744.21 of the EAR for related license requirements, license review policy, and restrictions on license exceptions.

## **PART 746 – EMBARGOES AND OTHER SPECIAL CONTROLS**

22. The authority citation for 15 CFR part 746 is continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108-11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007-7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 6, 2021, 86 FR 26793 (May 10, 2021).

23. Section 746.8 is revised to read as follows:

### **§ 746.8 Sanctions against Russia and Belarus.**

(a) *License requirements.* For purposes of paragraphs (a)(1) and (2) of this section, commodities and software classified under ECCNs 5A992 or 5D992 that have been ‘classified in accordance with § 740.17’ do not require a license to or within Russia or Belarus for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in

countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6.

(1) *Items classified in any ECCN in CCL Categories 3 to 9.* In addition to license requirements specified on the Commerce Control List (CCL) in Supplement No. 1 to part 774 of the EAR and in other provisions of the EAR, including part 744 and § 746.5, a license is required, excluding deemed exports and deemed reexports, to export, reexport, or transfer (in-country) to or within Russia or Belarus any item subject to the EAR and specified in any Export Control Classification Number (ECCN) in Categories 3, 4, 5, 6, 7, 8, or 9 of the CCL.

(2) *Foreign-produced “direct product” items subject to the EAR under Russia/Belarus foreign “direct product” (FDP) rule.* Except as described in paragraph (a)(4) of this section, a license is required to reexport, export from abroad, or transfer (in-country) to any destination any foreign-produced item subject to the EAR under the Russia/Belarus FDP rule described in § 734.9(f) of the EAR.

(3) *Foreign-produced “direct product” items subject to the EAR under Russia/Belarus-Military End User FDP rule.* Except as described in paragraph (a)(4) of this section, a license is required to reexport, export from abroad, or transfer (in-country) to or within any destination any foreign-produced item subject to the EAR under § 734.9(g) of the EAR other than food or medicine designated as EAR99.

(4) *Exclusion from license requirements under paragraphs (a)(2) and (3) of this section.* The countries listed in supplement No. 3 to this part have committed to implementing substantially similar export controls on Russia and Belarus under their domestic laws. Therefore, exports or reexports from the countries described in this supplement No. 3 to this part or transfers (in-country) within the countries described in this supplement are not subject to the license requirements described in paragraphs (a)(2) and (3) of this section, unless a limit to the exclusion is described in the Scope column in supplement no. 3 to this part.

(5) *Exclusion from scope of U.S.-origin controlled content under paragraph (a)(1) of this section.* For purposes of determining U.S.-origin controlled content under supplement No. 2 to part 734 of the EAR, paragraph (a)(1) of this section when making a *de minimis* calculation for reexports and exports from abroad to Russia or Belarus, the license requirements in paragraph (a)(1) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided the criteria in paragraphs (a)(5)(i) and (ii) of this section are met:

(i) The U.S.-origin content is described in an Anti-Terrorism (AT)-only ECCN and is not otherwise excluded from the applicable Scope column in supplement No. 3 to this part. For purposes of this paragraph (a)(5), AT-only items mean any ECCN that only specifies either only AT in the reason for control paragraph of the ECCN or is classified under ECCN 9A991; and

(ii) The foreign made item will be reexported or exported from abroad from a country described in supplement no. 3 to this part.



**Note 1 to paragraph (a).** A ‘military end user’ for purposes of paragraphs (a)(3) and (4) of this section is any entity listed on the Entity List in supplement no. 4 to part 744 of the EAR with a footnote 3 designation.

(b) *Licensing policy.* With limited exceptions, applications for the export, reexport, or transfer (in-country) of any item that requires a license for export or reexport to or transfer pursuant to the requirements of this section will be reviewed with a policy of denial. The following types of license applications for licenses required under paragraphs (a)(1) and (2) of this section will be reviewed on a case-by-case basis to determine whether the transaction in question would benefit the Russian or Belarusian government or defense sector: applications related to safety of flight; applications related to maritime safety; applications for civil nuclear safety; applications to meet humanitarian needs; applications that support government space cooperation; applications for items destined to wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, joint ventures of companies headquartered in Country Groups A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6; applications for companies headquartered in Country Groups A:5 and A:6 to support civil telecommunications infrastructure; and government-to-government activities. License applications required under paragraph (a)(3) of this section will be reviewed under a policy of denial in all cases.

(c) *License exceptions.* No license exceptions may overcome the license requirements in paragraph (a)(3) of this section, except as specified in the Entity List entry for a Footnote 3 entity on the Entity List in supplement no. 4 to part 744 of the EAR. No license exceptions may

overcome the license requirements in paragraphs (a)(1) and (2) of this section except the following license exceptions identified in paragraphs (c)(1) through (7) of this section.

(1) License Exception TMP for items for use by the news media as set forth in § 740.9(a)(9) of the EAR.

(2) License Exception GOV (§ 740.11(b) of the EAR).

(3) License Exception TSU for software updates for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR).

(4) License Exception BAG, excluding firearms and ammunition (§ 740.14, excluding paragraph (e), of the EAR).

(5) License Exception AVS, excluding any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia (§ 740.15(a) and (b) of the EAR).

(6) License Exception ENC for civil end-users that are wholly-owned U.S. subsidiaries, foreign subsidiaries of U.S. companies that are joint ventures with other U.S. companies, joint ventures of U.S. companies with companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740 of the EAR countries, the wholly-owned subsidiaries of

companies headquartered in countries from Country Group A:5 and A:6 in supplement no. 1 to part 740, or joint ventures of companies headquartered in Country Group A:5 and A:6 with other companies headquartered in Country Groups A:5 and A:6 (§ 740.13(c) of the EAR) (§ 740.17 of the EAR).

(7) License Exception CCD (§ 740.19 of the EAR).

24. Supplement No. 3 to part 746 is amended by revising the first sentence of the introductory text to read as follows:

**Supplement No. 3 to Part 746 – Countries Excluded from Certain License Requirements of § 746.8**

Countries listed in this supplement have committed to implementing substantially similar export controls on Russia and Belarus under their domestic laws and are consequently excluded from certain requirements in § 746.8 of the EAR, as described in § 746.8(a)(4) and (5). \* \* \*

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**Thea D. Rozman Kendler,**

*Assistant Secretary for Export Administration.*

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