Table of Contents

§ 748.1 GENERAL PROVISIONS 2

§ 748.2 OBTAINING FORMS; 3

MAILING ADDRESSES 3

§ 748.3 CLASSIFICATION REQUESTS AND ADVISORY OPINIONS 3

§ 748.4 BASIC GUIDANCE RELATED TO APPLYING FOR A LICENSE 7

§ 748.5 PARTIES TO THE TRANSACTION 9

§ 748.6 GENERAL INSTRUCTIONS FOR LICENSE APPLICATIONS 9

§ 748.7 REGISTERING FOR ELECTRONIC SUBMISSION OF LICENSE APPLICATIONS AND RELATED DOCUMENTS 10

§ 748.8 UNIQUE APPLICATION AND SUBMISSION REQUIREMENTS 11

§ 748.9 SUPPORT DOCUMENTS FOR EVALUATION OF FOREIGN PARTIES IN LICENSE APPLICATIONS AND / OR FOR PROMOTING COMPLIANCE WITH LICENSE REQUIREMENTS 12

§ 748.10 PEOPLE'S REPUBLIC OF CHINA (PRC) END-USER STATEMENT 15

§ 748.11 STATEMENT BY ULTIMATE CONSIGNEE AND PURCHASER 16

§ 748.12 FIREARMS IMPORT CERTIFICATE OR IMPORT PERMIT . 18

§748.13 HONG KONG IMPORT AND EXPORT LICENSES 20

§ 748.14 GRANTING OF EXCEPTIONS TO THE SUPPORT DOCUMENT REQUIREMENTS 21

§ 748.15 AUTHORIZATION VALIDATED END-USER (VEU) 22

SUPPLEMENT NO. 1 TO PART 748 - BIS-748P, BIS-748P-A: ITEM APPENDIX, AND BIS-748P-B: END-USER APPENDIX; MULTIPURPOSE APPLICATION INSTRUCTIONS 1

SUPPLEMENT NO. 2 TO PART 748 - UNIQUE APPLICATION AND SUBMISSION REQUIREMENTS 1

SUPPLEMENT NO. 3 TO PART 748 - STATEMENT BY ULTIMATE CONSIGNEE AND PURCHASER CONTENT REQUIREMENTS 1

SUPPLEMENT NO. 4 TO PART 748 - [RESERVED] 1

SUPPLEMENT NO. 5 TO PART 748 - U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE 1

SUPPLEMENT NO. 6 TO PART 748 - AUTHORITIES ISSUING IMPORT CERTIFICATES UNDER THE FIREARMS CONVENTION [RESERVED] 1

SUPPLEMENT NO. 7 TO PART 748 – AUTHORIZATION VALIDATED END-USER (VEU): LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATONS 1

SUPPLEMENT NO. 8 TO PART 748 - INFORMATION REQUIRED IN REQUESTS FOR VALIDATED END-USER (VEU) AUTHORIZATION .. 1

SUPPLEMENT NO. 9 TO PART 748 - END-USER REVIEW COMMITTEE PROCEDURES 1

§ 748.1 GENERAL PROVISIONS

(a) Scope

In this part, references to the Export Administration Regulations or EAR are references to 15 CFR chapter VII, subchapter C. The provisions of this part involve requests for classifications and advisory opinions, export license applications, reexport license applications, and certain license exception notices subject to the EAR. All terms, conditions, provisions, and instructions, including the applicant and consignee certifications, contained in electronic or paper form(s) are incorporated as part of the EAR. For the purposes of this part, the term "application" refers to both electronic applications and the Form BIS-748P: Multipurpose Application.

(b) BIS responses

BIS will give a formal classification, advisory opinion or licensing decision only through the review of a properly completed application supported by all relevant facts and required documentation submitted in writing or electronically to BIS.

(c) Confidentiality

Consistent with section 12(c) of the Export Administration Act, as amended, information obtained for the purpose of considering license applications, and other information obtained by the U.S. Department of Commerce concerning license applications, will not be made available to the public without the approval of the Secretary of Commerce or of the Under Secretary for Industry and Security.

(d) Electronic Filing Required

All export and reexport license applications, License Exception AGR notifications, requests to authorize use of License Exception STA for "600 series" end items (which are currently submitted as export license applications) and classification requests and their accompanying documents must be filed via BIS's Simplified Network Application Processing system (SNAP-R), unless BIS authorizes submission via the paper forms BIS 748-P (Multipurpose Application Form), BIS-748P-A (Item Appendix) and BIS-748P-B, (End-User Appendix). Only original paper forms may be used. Facsimiles or reproductions are not acceptable.

(1) Reasons for authorizing paper submissions. BIS will process paper applications notices or requests if the submitting party meets one or more of the following criteria:

(i) BIS has received no more than one submission (i.e. the total number of export license applications, reexport license applications, license exception AGR notifications, and classification requests) from that party in the twelve months immediately preceding its receipt of the current submission;

(ii) The party does not have access to the Internet;

(iii) BIS has rejected the party's electronic filing registration or revoked its eligibility to file electronically;

(iv) BIS has requested that the party submit a paper copy for a particular transaction; or

(v) BIS has determined that urgency, a need to implement U.S. government policy or a circumstance outside the submitting party's control justify allowing paper submissions in a particular instance.

(2) Procedure for requesting authorization to file paper applications, notifications, or requests. The applicant must state in Block 24 or as an attachment to the paper application (Form BIS 748-P) which of the criteria in paragraph (d)(1) of this section it meets and the facts that support such statement. Submit the

completed application, notification or request to Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania, N.W., Room 2099B, Washington D.C. 20230.

(3) BIS decision. If BIS authorizes or requires paper filing pursuant to this section, it will process the application, notification or request in accordance with Part 750 of the EAR. If BIS rejects a request to file using paper, it will return the Form BIS-748P and all attachments to the submitting party without action and will state the reason for its decision.

§ 748.2 OBTAINING FORMS; MAILING ADDRESSES

(a) You may obtain the forms required by the EAR from any U.S. Department of Commerce District Office; or in person or by telephone or facsimile from the following BIS offices:

(1) Outreach and Educational Services Division

U.S. Department of Commerce
14th Street and Pennsylvania Ave., NW.
Room H1099D
Washington, DC 20230
Tel: (202) 482-4811
Fax: (202) 482-2927, or

(2)Bureau of Industry and Security
Western Regional Office
U.S. Department of Commerce
2302 Martin St., Suite 330
Irvine, CA 92612
Tel: (949) 660-0144
Fax: (949) 660-9347,

(3) Bureau of Industry and Security
Western Regional Office
Northern California Branch
U.S. Department of Commerce
160 W. Santa Clara Street
Suite 725
San Jose, CA 95113
Tel: (408) 998-8806
Fax: (408) 998-8677.

(b) For the convenience of foreign consignees and other foreign parties, certain BIS forms may be obtained at U.S. Embassies and Consulates throughout the world.

§ 748.3 CLASSIFICATION REQUESTS AND ADVISORY OPINIONS

(a) Introduction

You may ask BIS to provide you with the correct Export Control Classification Number (ECCN) down to the paragraph (or subparagraph) level, if appropriate. BIS will issue you a determination that each item identified in your classification request is either described by an ECCN in the Commerce Control List (CCL) in Supplement No. 1 to Part 774 of the EAR or not described by an ECCN and, therefore, an "EAR99" item. These classification determinations issued by BIS are not U.S. Government determinations that the items described therein are “subject to the EAR,” as this term is defined in §734.3 of the EAR. Those who request commodity classifications and advisory opinions should have determined that the items at issue are not subject to the exclusive export control jurisdiction of one of the other U.S. Government agencies listed in §734.3(b) of the EAR. If requested, for a given end-use, end-user, and/or destination, BIS will advise you whether a license is required, or likely to be granted, for a particular transaction. Note that these responses do not bind BIS to issuing a license in the future. This type of request, along with requests for guidance regarding other interpretations of the EAR, is commonly referred to as an “Advisory Opinion.” The encryption provisions in the EAR require the submission of a classification request in accordance with §740.17(d) of the EAR in order for certain items to be eligible for export and reexport under License Exception ENC (see §740.17 of the EAR) or to be released from “EI”

controls (see §§ 740.17(b)(2) and 740.17(b)(3) of the EAR).

(b) Classification requests

Submit classification requests in accordance with the procedures in §748.1.

(1) Each Classification Request must be limited to six items. Exceptions may be granted by BIS on a case-by-case basis for several related items if the relationship between the items is satisfactorily substantiated in the request. Classification requests must be supported by any descriptive literature, brochures, precise technical specifications or papers that describe the items in sufficient technical detail to enable classification by BIS submitted as PDF files attached to the SNAP-R submission unless a paper submission is authorized pursuant to § 748.1 of the EAR.

(2) When submitting a Classification Request, you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 on the application. You must provide a recommended classification in Block 22(a) and explain the basis for your recommendation based on the technical parameters specified in the appropriate ECCN in Block 24. If you are unable to determine a recommended classification for your item, include an explanation in Block 24, identifying the ambiguities or deficiencies that precluded you from making a recommended classification.

(3) BIS assigns each of its commodity classifications a Commodity Classification Automated Tracking System (CCATS) number. Neither the BIS classification nor the CCATS number may be relied upon or cited as evidence that the U.S. Government has determined that the items described in the commodity classification determination are subject to the EAR (*See* 15 CFR 734.3).

(c) Advisory Opinions

Advisory opinion requests must be in writing and be submitted to the address listed in §748.1(d)(2). Both your letter and envelope must be marked "Advisory Opinion".

(1) Your letter must contain the following information if you are requesting guidance regarding interpretations of the EAR:

(i) The name, title, and telephone and facsimile numbers of the person to contact;

(ii) Your complete address comprised of street address, city, state, country, and postal code; and

(2) If you are requesting BIS to determine whether a license is required, or the licensing policy related to a particular end-use, end-user, and/or destination, in addition to the information required in §748.3(c)(1) you must also include:

(i) All available information on the parties to the transaction and the proposed end-use or end-user;

(ii) The model number for each item, where appropriate;

(iii) The Export Control Classification Number, if known, for each item; and

(iv) Any descriptive literature, brochures, technical specifications or papers that describe the items in sufficient technical detail to enable BIS to verify the correct classification.

(3) Requests for Validated End-User authorization should be submitted in accordance with the provisions set forth in §748.15 and Supplement Nos. 8 and 9 to this part.

(4) Advisory opinions are limited in scope to BIS's interpretation of EAR provisions. Advisory opinions differ from commodity classifications in that advisory opinions are not limited to the interpretation of provisions contained in the

Commerce Control List. Advisory opinions may not be relied upon or cited as evidence that the U.S. Government has determined that the items described in the advisory opinion are not subject to the export control jurisdiction of another agency of the U.S. Government (See 15 CFR 734.3).

(d) Classification requests for encryption items

A classification request associated with encryption items transferred from the U.S. Munitions List consistent with Executive Order 13026 of November 15, 1996 (3 CFR, 1996 Comp., p. 228) and pursuant to the Presidential Memorandum of that date may be required to determine eligibility under License Exception ENC or for release from "EI" controls. Refer to Supplement No. 6 to part 742 of the EAR for a complete list of technical information that is required for encryption classification requests. Refer to § 740.17(e)(3) and Supplement No. 8 to part 742 of the EAR for information that is required to be submitted in a self-classification report. Refer to § 740.17(b) of the EAR for instructions regarding mass market encryption commodities and software, including self-classifications and classification requests. Refer to §740.17 of the EAR for the provisions of License Exception ENC, including encryption self-classifications, classification requests and sales reporting. All classification requests, notifications and reports submitted to BIS pursuant to §§740.17 and 742.15(b) of the EAR will be reviewed by the ENC Encryption Request Coordinator, Ft. Meade, MD.

(e) *Classification requests to confirm that a "part," "component," "accessory," "attachment," or "software" is not "specially designed"*

(1) Scope. If you have a "part," "component," "accessory," "attachment," or "software" that is "specially designed" on the basis of paragraph (a)(1) or (2) of the "specially designed" definition in § 772.1 of the EAR, you may submit a request in accordance with the procedures in § 748.1 to confirm that the item is not "specially designed" provided you meet the following criteria:

(i) The "part," "component," "accessory," "attachment," or "software" does not meet the criteria of exclusion paragraph (b)(3) of the "specially designed" definition, but would meet the criteria if the minor changes in form or fit were determined to be insignificant by the U.S. Government.

(ii) The performance capabilities of the "part," "component," "accessory," "attachment," or "software" are the same as those of a "part," "component," "accessory," "attachment," or "software" that would meet the criteria of exclusion paragraph (b)(3) of the definition of "specially designed" in § 772.1 of the EAR.

(2) Information to be provided. Applicants wishing to submit a CCATS requesting confirmation that a "part," "component," "accessory," "attachment," or "software" is not "specially designed" must submit classification requests in accordance with the procedures in § 748.1 and general provisions regarding submitting classification requests in § 748.3(b). In addition, applicants must submit additional information identified in this paragraph (e)(2).

(i) The classification request must indicate in Block 24 or in a separate PDF attachment included with the CCATS submission that the "part," "component," "accessory," "attachment" or "software" would meet the criteria in paragraph (e)(1)(i) and (ii) of this section;

(ii) A detailed explanation must be provided regarding all changes in form and fit; *and*

(iii) A rationale must be provided that explains why such changes in form and fit should be treated as minor or insignificant in terms of their role in the performance capabilities of the enumerated item.

(3) ***U.S. Government Review.*** Commodity classification requests submitted pursuant to § 748.3(e) are reviewed by the Departments of Commerce, State and Defense. A consensus determination is required to confirm that a "part," "component," "accessory," "attachment," or "software" is not "specially designed" on the basis of this paragraph. The interagency review process will ensure U.S. national security and foreign policy interests are evaluated prior to any confirmation pursuant to § 748.3(e). The interagency review will consider on a case-by-case basis whether a particular "part," "component," "accessory," "attachment," or "software" is "specially designed" taking into account all the following:

(i) The insignificance of the changes in form and fit;

(ii) The overall role of the "part," "component," "accessory," "attachment," or "software" in the performance capabilities of the enumerated or otherwise described item that it is used in or with;

(iii) How substantively common it is to the other "part," "component," "accessory," "attachment," or "software" that would meet the paragraph (b)(3) criteria;

(iv) Whether such a confirmation would be consistent with U.S. Government multilateral export control regime commitments; *and*

(v) Any other criteria that may be relevant in determining whether the "part," "component," "accessory," "attachment," or "software" is "specially designed," including an evaluation of how such a confirmation may affect U.S. national security and foreign policy interests.

(4) CCATS response. The BIS response to the CCATS request will reflect the interagency consensus determination and the response will be made in accordance with the procedures in §§ 748.1 and 748.3(b). In addition, the BIS response will indicate one of the following:

(i) The "part," "component," "accessory," "attachment," or "software" is not "specially designed" on the basis of being within the scope of paragraph (b)(3) because the changes in form and fit have been determined by the U.S. Government to be minor or insignificant. In such cases, the new classification, which may be EAR99 or in another ECCN entry that does not use "specially designed," will be provided as part of the BIS response;"

(ii) The request under § 748.3(e) has been denied and the "part," "component," "accessory," "attachment," or "software" continues to be classified under a "specially designed" 'catch-all' (see the definition of "specially designed" in §772.1 of the EAR). The response will also include a determination regarding where the "specially designed" "part," "component," "accessory," "attachment," or "software" is classified on the CCL; or

(iii) Returned without action (RWA) because insufficient information was provided or information was not provided in a timely fashion. These requests will be reviewed closely, and they will likely require additional follow up questions of applicants, so responding to such requests in a timely fashion will be an important part of the process to ensure such requests are considered by the U.S. Government.

NOTE TO PARAGRAPH (e): *Although these requests for confirmation that an item is not "specially designed" are also reviewed by the Departments of State and Defense, similar to § 748.3(b)(3), the public is reminded that neither the BIS classification nor the CCATS number may be relied upon or cited as evidence that the U.S. Government has determined that the "parts," "components," "accessories," "attachments" and "software" described in the commodity classification determination or a release made from "specially designed" pursuant to § 748.3(e)*

are subject to the EAR (see § 734.3 of the EAR).

§ 748.4 BASIC GUIDANCE RELATED TO APPLYING FOR A LICENSE

(a) License Applicant

(1) Export transactions. Only a person in the United States may apply for a license to export items from the United States. The applicant must be the exporter, who is the U.S. principal party in interest with the authority to determine and control the sending of items out of the United States, except for Encryption License Arrangements (ELA) (see §750.7(d) of the EAR). See definition of "exporter" in part 772 of the EAR.

(2) Routed export transactions. The U.S. principal party in interest or the duly authorized U.S. agent of the foreign principal party in interest may apply for a license to export items from the United States. Prior to submitting an application, the agent that applies for a license on behalf of the foreign principal party in interest must obtain a power of attorney or other written authorization from the foreign principal party in interest. See §758.3(b) and (d) of the EAR.

(3) Reexport transactions. The U.S. or foreign principal party in interest, or the duly authorized U.S. agent of the foreign principal party in interest, may apply for a license to reexport controlled items from one country to another. Prior to submitting an application, an agent that applies for a license on behalf of a foreign principal party in interest must obtain a power-of-attorney or other written authorization from the foreign principal party in interest, unless there is a preexisting relationship by ownership, control, position of responsibility or affiliation. See power-of-attorney requirements in paragraph (b)(2) of this section.

(b) Disclosure of parties on license applications and the power of attorney

(1) Disclosure of parties. License applicants must disclose the names and addresses of all parties to a transaction. When the applicant is the U.S. agent of the foreign principal party in interest, the applicant must disclose the fact of the agency relationship, and the name and address of the agent's principal. If there is any doubt about which persons should be named as parties to the transaction, the applicant should disclose the names of all such persons and the functions to be performed by each in Block 24 of the application. Note that when the foreign principal party in interest is the ultimate consignee or end-user, the name and address need not be repeated in Block 24. See "Parties to the transaction" in §748.5.

(2) Power of attorney or other written authorization.

(i) ***Requirement***. An agent must obtain a power of attorney or other written authorization from the principal party in interest, unless there is a preexisting relationship by ownership, control, position of responsibility or affiliation, prior to preparing or submitting an application for a license, when acting as either:

(A) An agent, applicant, licensee and exporter for a foreign principal party in interest in a routed transaction; or

(B) An agent who prepares an application for export on behalf of a U.S. principal party in interest who is the actual applicant, licensee and exporter in an export transaction.

(ii) ***Application***. Block 7 of the application (documents on file with applicant) must be marked "other" and Block 24 (Additional information) must be marked "748.4(b)(2)" to indicate that the power of attorney or other written authorization is on file with the agent. See §758.3(d) for power of attorney requirement, and see also part 762 of the EAR for recordkeeping requirements.

(c) Prohibited from applying for a license

No person subject to a denial order based on a conviction for a violation of any statute specified at 50 U.S.C. 4819(e)(1)(B) may apply for any license for a period up to 10 years from the date of the conviction. The duration of the prohibition shall be included as a term of the denial order. See § 766.25 of the EAR.

(d) Prior action on a shipment

If you have obtained a license without disclosure of the facts described in this section, the license will be deemed to have been obtained without disclosure of all facts material to the granting of the license and the license so obtained will be deemed void. See part 764 of the EAR for other sanctions that may result in the event a violation occurs.

(1) Licenses for items subject to detention or seizure. If you submit a license application for items that you know have been detained or seized by the Office of Export Enforcement or by the U.S. Customs Service, you must disclose this fact to BIS when you submit your license application.

(2) Licenses for items previously exported. You may not submit a license application to BIS covering a shipment that is already laden aboard the exporting carrier, exported or reexported. If such export or reexport should not have been made without first securing a license authorizing the shipment, you must send a letter of explanation to the

Office of Export Enforcement
U.S. Department of Commerce
14th and Pennsylvania Avenue, N.W., H4520
Washington, D.C. 20230

The letter must state why a license was not obtained and disclose all facts concerning the shipment that would normally have been disclosed on the license application. You will be informed of any action and furnished any instructions by the Office of Export Enforcement.

(e) Multiple shipments

Your license application need not be limited to a single shipment, but may represent a reasonable estimate of items to be shipped throughout the validity of the license. Do not wait until the license you are using expires before submitting a new application. You may submit a new application prior to the expiration of your current license in order to ensure uninterrupted shipping.

(f) Second application

You may not submit a second license application covering the same proposed transaction while the first is pending action by BIS.

(g) Resubmission

If a license application is returned without action to you by BIS or your application represents a transaction previously denied by BIS, and you want to resubmit the license application, a new license application must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. Cite the Application Control Number on your original application in Block 24 on the new license application.

(h) Emergency processing

Applicants may request emergency processing of license applications by contacting the Outreach and Educational Services Division of the Office of Exporter Services by telephone on (202) 482-4811 or by facsimile on (202) 482-2927. Refer to the Application Control Number when making emergency processing requests. BIS will expedite its evaluation, and attempt to expedite the evaluations of other government agencies, of a license application when, in its sole judgement, the circumstances justify emergency processing. See

§750.7(g) of the EAR for the limit on the validity period of emergency licenses.

§ 748.5 PARTIES TO THE TRANSACTION

The following parties may be entered on the application. The definitions, which also appear in Part 772 of the EAR, are set out here for your convenience to assist you in filling out your application correctly.

(a) Applicant

The person who applies for an export or reexport license, and who has the authority of a principal party in interest to determine and control the export or reexport of items. See §748.4(a) and definition of "exporter" in part 772 of the EAR.

(b) Other party authorized to receive license

The person authorized by the applicant to receive the license. If a person and address is listed in Block 15 of the application, the Bureau of Industry and Security will send the license to that person instead of the applicant. Designation of another party to receive the license does not alter the responsibilities of the applicant, licensee or exporter.

(c) Purchaser

The person abroad who has entered into the transaction to purchase an item for delivery to the ultimate consignee. In most cases, the purchaser is not a bank, forwarding agent, or intermediary. The purchaser and ultimate consignee may be the same entity.

(d) Intermediate Consignee

The person that acts as an agent for a principal party in interest and takes possession of the items for the purpose of effecting delivery of the items to the ultimate consignee. The intermediate consignee may be a bank, forwarding agent, or other person who acts as an agent for a principal party in interest.

(e) Ultimate Consignee

The principal party in interest located abroad who receives the exported or reexported items. The ultimate consignee is not a forwarding agent or other intermediary, but may be the end-user.

(f) End-User

The person abroad that receives and ultimately uses the exported or reexported items. The end-user is not a forwarding agent or intermediary, but may be the purchaser or ultimate consignee.

§ 748.6 GENERAL INSTRUCTIONS FOR LICENSE APPLICATIONS

(a) Instructions

(1) General instructions for filling out license applications are in Supp. No. 1 to this part.

(2) License applications may require additional information due to the type of items requested in the application or the characteristics of the transaction. Special instructions for applications requiring such additional information are listed in § 748.8 and described fully in Supplement No. 2 to this part.

(3) License applications may also require additional information for evaluation of the parties in the transaction. Special instructions for applications requiring such additional information are listed in §§ 748.9 through 748.13.

(b) Application Control Number

Each application has an application control number. The Application Control Number, consisting of a letter followed by six digits, is for use by BIS when processing applications, and by

applicants when communicating with BIS concerning pending applications. This number is used for tracking purposes within the U.S. Government. The Application Control Number is not a license number.

(c) Approval or denial in entirety

License applications may be approved in whole or in part, denied in whole or in part, or returned without action. However, you may specifically request that your license application be considered as a whole and either approved or denied in its entirety.

(d) Combining items on license applications

Any items may be combined on a single application; however, if the items differ dramatically (e.g., computers and shotguns) the number of BIS offices to which a license application may be referred for review may increase significantly. Accordingly, it is recommended that you limit items on each license application to those that are similar and/or related.

(e) Attachments to applications

Documents required to be submitted with applications filed via SNAP-R must be submitted as PDF files using the procedures described in SNAP-R. Documents required to be submitted with paper applications must bear the application control number to which they relate and, if applicable, be stapled to the paper form. Where necessary, BIS may require you to submit additional information beyond that stated in the EAR confirming or amplifying information contained in your license application.

(f) Changes in facts

Answers to all items on the license application will be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the transaction, must be promptly reported to BIS, whether a license has been granted or the license application is still under consideration. If a license has been granted and such changes are not excepted in §750.7(c) of the EAR, they must be reported immediately to BIS, even though shipments against the license may be partially or wholly completed, during the validity period of the license.

(g) Request for extended license validity period

An extended validity period will generally be granted if your transaction is related to a multi-year project, when production lead time will not permit export or reexport during the normal validity period or for other similar circumstances. A continuing requirement to supply spare or replacement parts will not normally justify an extended validity period. To request an extended validity period, include justification for your request in Block 24 on the application.

§ 748.7 REGISTERING FOR ELECTRONIC SUBMISSION OF LICENSE APPLICATIONS AND RELATED DOCUMENTS

(a) Scope

This section describes the procedures for registering to submit electronic documents to BIS. The procedures in this section apply to submission of export and reexport license applications, classification requests, and License Exception AGR notifications.

(b) Registration and use of BIS's Simplified Network Applications System—Redesign (SNAP–R)

Parties wishing to submit electronically must log on to https://snapr.bis.doc.gov/registration to register. Upon initial registration, the party (the

filing entity) will have to supply the name of the entity that will be submitting documents electronically and its address and the name, telephone number, facsimile number and e-mail address of the person who will act as account administrator. The person will be required to certify that the information so supplied is correct and complete, that the person has authority to register the entity that will be making electronic submissions and that the person has authority to act as an account administrator for that entity.

(c) Role of account administrator

The account administrator is able to add and remove individual users to and from the account of the filing entity for which it is the account administrator. The account administrator can also make individual users account administrators and can terminate an individual user's administrator status. The account administrator can deactivate the account of an individual user and reactivate the account of a previously deactivated individual user. The account administrator can update the filing entity's identifying information such as name and address and any individual user's identifying information such as name, telephone number, facsimile number and e-mail address. The account administrator can reset individual users' passwords.

(d) Role of individual users

An individual user may submit to BIS export and reexport license applications, classification requests, and License Exception AGR notifications.

(e) Effect of submission to BIS

BIS may refuse to accept an electronic submission if it has reason to believe that the individual user making the submission lacks authority to do so. However, BIS is not obligated to conduct any checks to determine whether an individual user has the necessary authority and will generally treat users as acting within their authority. Acting through their account administrators, parties have the ability to remove an individual user when that individual user is no longer authorized to make submissions on behalf of that party to BIS and should do so promptly.

(f) Requirement to keep identifying information accurate and current

(1) Filing entities. Filing entities must, through their account administrators, update their identifying information such as name, address and telephone number in their SNAP–R account as necessary to keep that information accurate and current.

(2) Individual users. Individual users must, through their account administrators, update their identifying information such as name, telephone number, facsimile number and e-mail address in their SNAP–R accounts as necessary to keep that information accurate and current.

§ 748.8 UNIQUE APPLICATION AND SUBMISSION REQUIREMENTS

In addition to the instructions contained in Supplement No. 1 to this part 748, you must also ensure that the additional requirements for certain items or types of transactions described in this section are addressed in your license application. See Supplement No. 2 to this part 748 if your application involves:

(a) Chemicals, medicinals, and pharmaceuticals.

(b) Communications intercepting devices.

(c) Digital computers, telecommunications, and related equipment.

(d) [RESERVED]

(e) Intransit shipments through the United States.

(f) Intransit shipments outside of the United States.

(g) Nuclear Nonproliferation items and end-uses.

(h) Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies and specially designed software.

(i) Parts, components, and materials incorporated abroad into foreign-made products.

(j) Ship stores, plane stores, supplies, and equipment.

(k) Regional stability controlled items.

(l) Reexports.

(m) Robots.

(n) Short Supply controlled items.

(o) Technology.

(p) Temporary exports or reexports.

(q) Exports of chemicals controlled for CW reasons by ECCN 1C350 to countries not listed in Supplement No. 2 to part 745 of the EAR..

(r) Encryption classification requests.

(s) [RESERVED]

(t) [RESERVED]

(u) Aircraft and vessels on temporary sojourn.

(v) In-country transfers.

(w) License Exception STA eligibility requests for "600 series" end items.

(x) License application for a transaction involving a 9x515 and "600 series" item that is equivalent to a transaction previously approved under an ITAR license or other approval.

(y) Satellite exports.

§ 748.9 SUPPORT DOCUMENTS FOR EVALUATION OF FOREIGN PARTIES IN LICENSE APPLICATIONS AND / OR FOR PROMOTING COMPLIANCE WITH LICENSE REQUIREMENTS

(a) Scope

License applicants may be required to obtain support documents concerning the foreign parties and the disposition of the items intended for export, reexport, or transfer (in-country). Some support documents are issued by foreign governments, while other support documents are signed and issued by the purchaser and/or ultimate consignee. For support documents issued by foreign governments, any foreign legal restrictions or obligations exercised by the government issuing the support document are in addition to the conditions and restrictions placed on the transaction by BIS. However, the laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of a support document by a foreign government.

(b) Requirements to obtain support documents for license applications

Unless an exception in paragraph (c) of this section applies, a support document is required for certain license applications for:

(1) The People's Republic of China (PRC) other than the Hong Kong Special Administrative Region (see §§ 748.10 and 748.11(a)(2));

(2) "600 Series Major Defense Equipment" (see § 748.11);

(3) Firearms and related commodities to member countries of the Organization of American States (see § 748.12); and

(4) The Hong Kong Special Administrative Region of the People's Republic of China (see § 748.13).

NOTE 1 TO PARAGRAPH (b): *On a case-by-case basis, BIS may require license applicants to obtain a support document for any license application.*

NOTE 2 TO PARAGRAPH (b): *For End-Use Certificate requirements under the Chemical Weapons Convention, see § 745.2 of the EAR.*

(c) Exceptions to requirements to obtain support documents

(1) Even if a support document requirement is imposed by paragraph (b) of this section, no support document is required for any of the following situations:

(i) The ultimate consignee or purchaser is an "Agency of the United States Government" (see § 740.11(b)(1) for definition). If either the ultimate consignee or purchaser is not an agency of the United States government, however, a support document may still be required from the non-U.S. governmental party;

(ii) The ultimate consignee or purchaser is a foreign government(s) or foreign government agency(ies), other than the government of the People's Republic of China. To determine whether the parties in a transaction meet the definition of "foreign government agency," refer to the definition contained in part 772 of the EAR. If either the ultimate consignee or purchaser is not a foreign government or foreign government agency, however, a support document may still be required from the nongovernmental party;

(iii) The license application is filed by, or on behalf of, a relief agency registered with the Advisory Committee on Voluntary Foreign Aid, U.S. Agency for International Development, for export to a member agency in the foreign country;

(iv) The license application is submitted for commodities for temporary exhibit, demonstration, or testing purposes;

(v) The license application is submitted for commodities controlled for short supply reasons (see part 754 of the EAR);

(vi) [Reserved]

(vii) The license application is submitted for software or technology; or

(viii) The license application is submitted for encryption commodities controlled under ECCN 5A002, 5A004 or 5B002.

(2) BIS will consider granting an exception to the requirement for obtaining a support document where the requirements cannot be met due to circumstances beyond the applicant's control. An exception will not be granted contrary to the objectives of the U.S. export control laws and regulations. Refer to § 748.13 of this part for specific instructions on procedures for requesting an exception.

(d) Content of support documents

In addition to specific requirements described for each support document in §§ 748.10, 748.11, and 748.12, the use and submission of support documents must comply with the following requirements.

(1) English translation. All abbreviations, coded terms, or other expressions on support documents having special significance in the trade or to the parties to the transaction must be explained on an attachment to the document. Documents in a language other than English must be accompanied by an attachment giving an accurate English translation, either made by a

translating service or certified by the applicant to be correct. Explanations or translations should be provided on a separate piece of paper, and not entered on the support documents themselves.

(2) Responsibility for full disclosure.

(i) The license application covering the transaction discloses all facts pertaining to the transaction. Information contained in a support document obtained after submission of a license application and not submitted to BIS as part of the application cannot be construed as extending or expanding or otherwise modifying the specific information supplied in a license application or license issued by BIS. The authorizations contained in the resulting license are not extended by information contained in the support document regarding reexport from the country of destination, transfer (in-country), or any other facts relative to the transaction that are not reported on the license application.

(ii) Misrepresentations, either through failure to disclose facts, concealing a material fact, or furnishing false information, may subject responsible parties to administrative or criminal action by BIS.

(iii) In obtaining the required support document, the applicant is not relieved of the responsibility for full disclosure of any other information concerning the ultimate destination, end use, or end user of which the applicant knows, even if inconsistent with the representations made in the applicable support document. The applicant is responsible for promptly notifying BIS of any change in the facts contained in the support document that comes to the applicant's attention.

(e) Procedures for using support document with license application

(1) Timing for obtaining support document. When a support document is required for a license application in §§ 748.10, 748.11, and 748.12, license applicants may submit the application prior to receipt of a copy of the support document, unless BIS informs the applicant that the support document must be submitted with the application. However, if the license is granted, items authorized on the license may not be exported, reexported, or transferred (in-country) until the license holder obtains a copy of the support document. The documents issued by the Government of the Hong Kong Special Administrative region that are required pursuant to § 748.13 are not used to evaluate license applications. They must be obtained before shipment and need not be obtained before submitting a license application.

(2) Information necessary for license application. When a support document is required for a license application, applicants should mark the appropriate box in Block 7, regardless of whether a copy of the support document is on file with the applicant at the time of submission.

(f) Recordkeeping provisions

License applicants must retain on file the original or a copy of any support document issued in support of a license application submitted to BIS. All recordkeeping provisions in part 762 apply to this requirement.

(g) Effect on license application review

BIS reserves the right in all respects to determine to what extent any license will be issued covering items for which a support document has been issued. If a support document was issued by a foreign government, BIS will not seek or undertake to give consideration to recommendations from the foreign government as to the action to be taken on a license application. A support document will be only one of the factors upon which BIS will base its licensing action,

since end uses and other considerations are important factors in the decision making process.

(h) Grace period for complying with requirements following regulatory change

(1) Whenever the requirement for a PRC End-User Statement, Statement by Ultimate Consignee or Purchaser, or Firearms Convention Import Certificate is imposed or extended by a change in the regulations, the license application need not conform to the new support documentation requirements for a period of 45 days after the effective date of the regulatory change published in the Federal Register.

(2) License applications filed during the 45-day grace period may require the submission of evidence available to the applicant that will support representations concerning the ultimate consignee, ultimate destination, and end use, such as copies of the order, letters of credit, correspondence between the applicant and ultimate consignee, or other documents received from the ultimate consignee. If such evidence is required, applicants must also identify the regulatory change (including its effective date) that justifies exercise of the 45-day grace period.

§ 748.10 PEOPLE'S REPUBLIC OF CHINA (PRC) END-USER STATEMENT

(a) Requirement to obtain document

Unless the provisions of §§ 748.9(c) or 748.11(a)(2) apply, a PRC End-User Statement is required for license applications including any of the following commodities destined for the PRC:

(1) Cameras classified under ECCN 6A003 requiring a license to the PRC for any reason, and the value of such cameras exceeds $5,000;

(2) Computers requiring a license to the PRC for any reason, regardless of the value of the computers; or

(3) Any commodity(ies) requiring a license to the PRC for any reason on the Commerce Control List, and the total value of such commodity(ies) requiring a license exceeds $50,000.

NOTE 1 TO PARAGRAPH (a): *If an order meets the commodity(ies) and value requirements listed above, then a PRC End-User Statement is required. An order may not be split into multiple license applications solely to avoid a requirement to obtain a PRC End-User Statement.*

NOTE 2 TO PARAGRAPH (a): *If an order includes both items that do require a license to the PRC and items that do not require a license to the PRC, the value of the latter items should not be factored into the value thresholds described above. Also, if a license application includes 6A003 cameras and other items requiring a license to the PRC, then the value of the 6A003 cameras should be factored into the value threshold described in paragraph (a)(3).*

NOTE 3 TO PARAGRAPH (a): *See § 748.11(a)(2) for permissive use of a Statement by Ultimate Consignee and Purchaser in place of a PRC End-User Statement.*

NOTE 4 TO PARAGRAPH (a): *On a case-by-case basis, BIS may require license applicants to obtain a PRC End-User Statement for a license application that would not otherwise require a PRC End-User Statement under the requirements of paragraph (a) of this section.*

NOTE 5 TO PARAGRAPH (a): *This requirement to obtain an end-user statement from the PRC Ministry of Commerce does not apply to transactions destined to the PRC Special Administrative Region of Hong Kong.*

(b) Obtaining the document

(1) If a PRC End-User Statement is required for any reason under paragraph (a) of this section, then applicants must request that the importer obtain a PRC End-User Statement for all items on a license application that require a license to the PRC for any reason listed on the CCL.

(2) PRC End-User Statements are issued and administered by the Ministry of Commerce; Department of Mechanic, Electronic and High Technology Industries; Export Control Division I; Chang An Jie No. 2; Beijing 100731 China; Phone: (86)(10) 6519 7366 or 6519 7390; Fax: (86)(10) 6519 7543; http://zzyhzm.mofcom.gov.cn/. See the BIS website (www.bis.doc.gov) for the current contact information.

(c) Content of the document

(1) The license applicant's name must appear on the PRC End-User Statement submitted to BIS as the applicant, supplier, or order party.

(2) License applicants must ensure that the following information is included on the PRC End-User Statement signed by an official of the Department of Mechanic, Electronic and High Technology Industries, Export Control Division I, of the PRC Ministry of Commerce (MOFCOM), with MOFCOM's seal affixed to it:

(i) Title of contract and contract number (optional);

(ii) Names of importer and exporter;

(iii) End user and end use;

(iv) Description of the commodity, quantity and dollar value; and

(v) Signature of the importer and date.

NOTE TO PARAGRAPH (c): *The license applicant should furnish the consignee with the commodity description contained in the CCL to be used in applying for the PRC End-User Statement. It is also advisable to furnish a manufacturer's catalog, brochure, or technical specifications if the commodity is new.*

(d) Procedures for using document with license application

(1) Using a PRC End-User Statement for multiple applications. A PRC End-User Statement may cover more than one purchase order and more than one item. Where the Statement includes items for which more than one license application will be submitted, the applicant should ensure that the total quantities on the license application(s) do not exceed the total quantities shown on the PRC End-User Statement.

(2) Alterations. After a PRC End-User Statement is issued by the Government of the People's Republic of China, no corrections, additions, or alterations may be made on the certificate by any person. Any necessary corrections, additions, or alterations should be noted by the applicant in a separate statement on file with the applicant.

(3) Validity period. A PRC End-User Statement is valid until the quantities of items identified on the Statement have been shipped.

§ 748.11 STATEMENT BY ULTIMATE CONSIGNEE AND PURCHASER

(a) Requirement to obtain document

(1) General requirement for all countries excluding the People's Republic of China (PRC). Unless an exception in § 748.9(c) or paragraph (a)(3) of this section applies, a Statement by Ultimate Consignee and Purchaser is required if the license application includes "600 Series Major Defense Equipment" (600 series

MDE) requiring a license for any reason on the Commerce Control List and such items are destined for a country other than the PRC.

(2) Permissive substitute of Statement by Ultimate Consignee and Purchaser in place of PRC End-User Statement. The requirement to obtain a support document for license applications involving the PRC is generally determined by § 748.10(a) of the EAR. However, a Statement by Ultimate Consignee and Purchaser may be substituted in place of a PRC End-User Statement when the commodities to be exported (i.e., replacement parts and components) are valued at $75,000 or less and are for servicing previously exported commodities.

(3) Exception to general requirement. The general requirement described in paragraph (a)(1) of this section does not apply if the applicant is the same person as the ultimate consignee, provided the required statements are contained in Block 24 on the license application. This exemption does not apply, however, where the applicant and consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms.

NOTE 1 TO PARAGRAPH (a): *An order may not be split into multiple license applications solely to avoid a requirement to obtain a Statement by Ultimate Consignee and Purchaser.*

NOTE 2 TO PARAGRAPH (a): *On a case-by-case basis, BIS may require license applicants to obtain a Statement by Ultimate Consignee and Purchaser for a license application that would not otherwise require a Statement by Ultimate Consignee and Purchaser under the requirements of paragraph (a) of this section.*

(b) Obtaining the document

(1) The ultimate consignee and purchaser must complete either a statement on company letterhead, or Form BIS–711, Statement by Ultimate Consignee and Purchaser, as described in paragraph (c) of this section. Unless otherwise specified, any reference in this section to "Statement by Ultimate Consignee and Purchaser" applies to both the statement on company letterhead and to Form BIS-711.

(2) If the consignee and purchaser elect to complete the statement on letterhead and both the ultimate consignee and purchaser are the same entity, only one statement is necessary.

(3) If the ultimate consignee and purchaser are separate entities, separate statements must be prepared and signed.

(4) If the ultimate consignee and purchaser elect to complete Form BIS–711, only one Form BIS–711 (containing the signatures of the ultimate consignee and purchaser) need be completed.

(5) Whether the ultimate consignee and purchaser sign a written statement or complete Form BIS–711, the following constraints apply:

(i) Responsible officials representing the ultimate consignee or purchaser must sign the statement. "Responsible official" is defined as someone with personal knowledge of the information included in the statement, and authority to bind the ultimate consignee or purchaser for whom they sign, and who has the power and authority to control the use and disposition of the licensed items.

(ii) The authority to sign the statement may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his or her official position with the ultimate consignee or purchaser for whom he or she signs. The signing official may be located in the United States or in a foreign country. The official title of the person signing the statement must also be included.

(iii) The consignee and/or purchaser must submit information that is true and correct to the best of their knowledge and must promptly send a

new statement to the applicant if changes in the facts or intentions contained in their statement(s) occur after the statement(s) have been forwarded to the applicant. Once a statement has been signed, no corrections, additions, or alterations may be made. If a signed statement is incomplete or incorrect in any respect, a new statement must be prepared, signed and forwarded to the applicant.

(c) Content of the document

See Supplement No. 3 to this part for the information necessary to complete a statement on company letterhead or on Form BIS-711.

(d) Procedures for using document with license application

(1) Validity period.

(i) If a Statement by Ultimate Consignee and Purchaser is obtained prior to submission of the license application and the Statement is required to support one or more license applications, an applicant must submit the first license application within one year from the date the statement was signed.

(ii) All subsequent license applications supported by the same Statement by Ultimate Consignee and Purchaser must be submitted within four years of signature by the consignee or purchaser, whichever was last.

(2) [RESERVED]

§ 748.12 FIREARMS IMPORT CERTIFICATE OR IMPORT PERMIT

License applications for certain firearms and related commodities require support documents in accordance with this section. For destinations that are members of the Organization of American States (OAS), an FC Import Certificate or equivalent official document is required in accordance with paragraphs (a) through (d) of this section. For other destinations that require a firearms import or permit, the firearms import certificate or permit is required in accordance with paragraph (e) of this section.

(a) Requirement to obtain document for OAS member states

Unless an exception in § 748.9(c) applies, an FC Import Certificate is required for license applications for firearms and related commodities, regardless of value, that are destined for member countries of the OAS. This requirement is consistent with the OAS Model Regulations described in § 742.17 of the EAR.

(1) Items subject to requirement. Firearms and related commodities are those commodities controlled for "FC Column 1" reasons under ECCNs 0A501 (except 0A501.y), 0A502, 0A504 (except 0A504.f), or 0A505 (except 0A505.d).

(2) Countries subject to requirement.

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

(ii) [RESERVED]

(3) Equivalent official document in place of FC Import Certificate. For those OAS member countries that have not yet established or implemented an FC Import Certificate procedure, BIS will accept an equivalent official document (e.g., import license or letter of authorization) issued by the government of the importing country as supporting documentation for the export of firearms.

(b) Obtaining the document

(1) Applicants must request that the importer (e.g., ultimate consignee or purchaser) obtain the FC Import Certificate or an equivalent official document from the government of the importing country, and that it be issued covering the quantities and types of firearms and related items that the applicant intends to export. (See Supplement No. 6 to this part for a list of the OAS member countries' authorities administering the FC Import Certificate System.) Upon receipt of the FC Import Certificate, its official equivalent, or a copy, the importer must provide the original or a certified copy of the FC Import Certificate or the original or a certified copy of the equivalent official document to the license applicant.

(2) If the government of the importing country will not issue an FC Import Certificate or its official equivalent, the applicant must supply the information described in paragraphs (c)(1) and (c)(6) through (c)(8) of this section on company letterhead.

(c) Content of the document

The FC Import Certificate or its official equivalent must contain the following information:

(1) Applicant's name and address. The applicant may be either the exporter, supplier, or order party.

(2) FC Import Certificate Identifier/Number.

(3) Name of the country issuing the certificate or unique country code.

(4) Date the FC Import Certificate was issued, in international date format (e.g., 24/12/12 for 24 December 2012, or 3/1/99 for 3 January 1999).

(5) Name of the agency issuing the certificate, address, telephone and facsimile numbers, signing officer name, and signature.

(6) Name of the importer, address, telephone and facsimile numbers, country of residence, representative's name if commercial or government body, citizenship, and signature.

(7) Name of the end user(s), if known and different from the importer, address, telephone and facsimile numbers, country of residence, representative's name if commercial (authorized distributor or reseller) or government body, citizenship, and signature. Note that BIS does not require the identification of each end user when the firearms and related commodities will be resold by a distributor or reseller if unknown at the time of export.

(8) Description of the commodities approved for import including a technical description and total quantity of firearms, parts and components, ammunition and parts.

NOTE 1 TO PARAGRAPH (c)(8): *You must furnish the consignee with a detailed technical description of each commodity to be given to the government for its use in issuing the FC Import Certificate. For example, for shotguns, provide the type, barrel length, overall length, number of shots, the manufacturer's name, the country of manufacture, and the serial number for each shotgun. For ammunition, provide the caliber, velocity and force, type of bullet, manufacturer's name and country of manufacture.*

(9) Expiration date of the FC Import Certificate in international date format (e.g., 24/12/12) or the date the items must be imported, whichever is earlier.

(10) Name of the country of export (i.e., United States).

(11) Additional information. Certain Certain countries may require the tariff classification number, by class, under the Brussels Convention (Harmonized Tariff Code) or the specific technical description of a commodity. For example,

shotguns may need to be described in barrel length, overall length, number of shots, manufacturer's name and country of manufacture. The technical description is not the Export Control Classification Number (ECCN).

(d) Procedures for using document with license application

(1) Information necessary for license application. The license application must include the same commodities as those listed on the FC Import Certificate or the equivalent official document.

(2) Alterations. After an FC Import Certificate or equivalent official document is used to support the issuance of a license, no corrections, additions, or alterations may be made on the FC Import Certificate by any person. Any necessary corrections, additions, or alterations should be noted by the applicant in a separate statement on file with the applicant.

(3) Validity period. FC Import Certificates or equivalent official documents issued by an OAS member country will be valid until the expiration date on the Certificate or for a period of four years, whichever is shorter.

(e) ***Requirement to obtain an import certificate or permit for other than OAS member states***

If the country to which firearms, parts, components, accessories, and attachments controlled under ECCN 0A501, or ammunition controlled under ECCN 0A505, are being exported or reexported requires that a government-issued certificate or permit be obtained prior to importing the commodity, the exporter or reexporter must obtain and retain on file the original or a copy of that certificate or permit before applying for an export or reexport license unless:

(1) A license is not required for the export or reexport; or

(2) The exporter is required to obtain an import or end-user certificate or other equivalent official document pursuant to paragraphs (a) thorough (d) of this section and has, in fact, complied with that requirement.

(3)(i) The number or other identifying information of the import certificate or permit must be stated on the license application.

(ii) If the country to which the commodities are being exported does not require an import certificate or permit for firearms imports, that fact must be noted on any license application for ECCN 0A501 or 0A505 commodities.

Note 2 to paragraph (e). *Obtaining a BIS Statement by Ultimate Consignee and Purchaser pursuant to § 748.11 does not exempt the exporter or reexporter from the requirement to obtain a certification pursuant to paragraph (a) of this section because that statement is not issued by a government.*

§748.13 HONG KONG IMPORT AND EXPORT LICENSES

(a) Requirement to obtain the document

(1) Exports and reexports to Hong Kong. An exporter or reexporter must obtain the documents described in paragraph (a)(1)(i) or (a)(1)(ii) of this section before using a license issued by BIS to export or reexport to Hong Kong any item subject to the EAR and controlled on the CCL for NS, MT, NP column 1, or CB reasons. Collectively, the documents issued by Hong Kong must cover all of the items to be exported or reexported pursuant to a license.

(i) A copy of an import license issued to the Hong Kong importer by the Government of the

Hong Kong Special Administrative Region, pursuant to the Hong Kong Import and Export (Strategic Commodities) Regulations, that covers the items to be exported or reexported pursuant to that BIS license for which a Hong Kong import license is required and that is valid on the date of the export or reexport that is subject to the EAR; or

(ii) A copy of a written statement issued by the Government of the Hong Kong Special Administrative Region that no import license is required to import into Hong Kong the item(s) to be exported or reexported to Hong Kong. The statement may have been issued directly to the Hong Kong importer or it may be a written statement available to the general public. The statement may be used for more than one export or reexport to Hong Kong so long as it remains an accurate statement of Hong Kong law.

(2) Reexports from Hong Kong. No license issued by BIS may be used to reexport from Hong Kong any item subject to the EAR controlled on the CCL for NS, MT, NP column 1, and/or CB reasons unless the reexporter has received either:

(i) An export license issued by the Government of the Hong Kong Special Administrative Region, pursuant to the Hong Kong Import and Export (Strategic Commodities) Regulations, that covers all items to be rexported pursuant to that BIS license for which a Hong Kong export license is required and that is valid on the date of the reexport that is subject to the EAR; or

(ii) A copy of a written statement issued by the Government of the Hong Kong Special Administrative Region that no export license is required from Hong Kong for the item(s) to be reexported. The statement may have been issued directly to the Hong Kong reexporter or it may be a written statement available to the general public. The statement may be used for more than one reexport from Hong Kong so long as it remains an accurate statement of Hong Kong law.

(b) Recordkeeping

The documents required to be obtained by paragraph (a) of this section must be retained and made available to the U.S. Government upon request in accordance with part 762 of the EAR.

§ 748.14 GRANTING OF EXCEPTIONS TO THE SUPPORT DOCUMENT REQUIREMENTS

(a) Overview

A request for an exception to obtaining the required support documentation will be considered by BIS; however, an exception will not be granted contrary to the objectives of the U.S. export control program. A request for exception may involve either a single transaction or, where the reason necessitating the request is continuing in nature, multiple transactions. If satisfied by the evidence presented, BIS may waive the support document requirement and accept the license application for processing.

(b) Procedure for requesting an exception

The request for an exception must be submitted with the license application to which the request relates, and the reason(s) for requesting the exception must be described in Block 24 or referred to in Block 24. Where the request relates to more than one license application, it should be submitted with the first license application and referred to in Block 24 on any subsequent license application.

(c) Action by BIS

(1) Single transaction request. Where a single transaction is involved, BIS will act on the request for exception at the same time as the license

application with which the request is submitted. In those instances where the related license application is approved, the issuance of the license will serve as an automatic notice to the applicant that the exception was approved. If any restrictions are placed on granting of the exception, these will appear on the approval. If the request for exception is not approved, BIS will advise the applicant.

(2) Multiple transactions request. Where multiple transactions are involved, BIS will advise the applicant of the action taken on the exception request. The response from BIS will contain any conditions or restrictions that BIS finds necessary to impose (including an exception termination date if appropriate). In addition, a written acceptance of these conditions or restrictions may be required from the parties to the transaction.

§ 748.15 AUTHORIZATION VALIDATED END-USER (VEU)

Authorization Validated End-User (VEU) permits the export, reexport, and transfer to validated end-users of any eligible items that will be used in a specific eligible destination. Validated end-users are those who have been approved in advance pursuant to the requirements of this section. To be eligible for authorization VEU, exporters, reexporters, and potential validated end-users must adhere to the conditions and restrictions set forth in paragraphs (a) through (f) of this section. If a request for VEU authorization for a particular end-user is not granted, no new license requirement is triggered. In addition, such a result does not render the end-user ineligible for license approvals from BIS.

(a) Eligible end-users

The only end-users to whom eligible items may be exported, reexported, or transferred under VEU are those validated end-users identified in Supplement No. 7 to Part 748, according to the provisions in this section and those set forth in Supplement Nos. 8 and 9 to this part that have been granted VEU status by the End-User Review Committee (ERC) according to the process set forth in Supplement No. 9 to this part.

(1) Requests for authorization must be submitted in the form of an advisory opinion request, as described in §748.3(c)(2), and should include a list of items (items for purposes of authorization VEU include commodities, software and technology, except as excluded by paragraph (c) of this section), identified by ECCN, that exporters or reexporters intend to export, reexport or transfer to an eligible end-user, once approved. To ensure a thorough review, requests for VEU authorization must include the information described in Supplement No. 8 to this part. Requests for authorization will be accepted from exporters, reexporters or end-users. Submit the request to:

The Office of Exporter Services
Bureau of Industry and Security
U.S. Department of Commerce
14th Street and Pennsylvania Avenue, NW.
Room 2099B
Washington, DC 20230

Mark the package "Request for Authorization Validated End-User."

(2) In evaluating an end user for eligibility under authorization VEU, the ERC will consider a range of information, including such factors as: the entity's record of exclusive engagement in appropriate end-use activities; the entity's compliance with U.S. export controls; the need for an on-site review prior to approval; the entity's capability of complying with the requirements of authorization VEU; the entity's agreement to on-site reviews by representatives of the U.S. Government to ensure adherence to the conditions of the VEU authorization; and the entity's relationships with U.S. and foreign companies. In addition, when evaluating the eligibility of an

end user, the ERC will consider the status of export controls and the support and adherence to multilateral export control regimes of the government of the eligible destination.

(3) The VEU authorization is subject to revision, suspension or revocation entirely or in part.

(4) Information submitted in a VEU request is deemed to constitute continuing representations of existing facts or circumstances. Any material or substantive change relating to the authorization must be promptly reported to BIS, whether VEU authorization has been granted or is still under consideration.

(b) Eligible destinations

Authorization VEU may be used for the following destinations:

(1) The People's Republic of China.

(2) India.

(c) Item restrictions

Items controlled under the EAR for missile technology (MT) and crime control (CC) reasons may not be exported or reexported under this authorization.

(d) End-use restrictions

Items obtained under authorization VEU in China may be used only for civil end uses and may not be used for any activities described in part 744 of the EAR. Items obtained under authorization VEU in India may be used for either civil or military end uses and may not be used for any activities described in part 744 of the EAR. Exports, reexports, or transfers made under authorization VEU may be made to an end user listed in Supplement No. 7 to this part only if the items will be consigned to and for use by the validated end user. Eligible end-users who obtain items under VEU may only:

(1) Use such items at the end-user's own facility located in an eligible destination or at a facility located in an eligible destination over which the end-user demonstrates effective control;

(2) Consume such items during use; or

(3) Transfer or reexport such items only as authorized by BIS.

NOTE TO PARAGRAPH (d): *Authorizations set forth in Supplement No. 7 to this part are country-specific. Authorization as a validated end-user for one country specified in paragraph (b) of this section does not constitute authorization as a validated end-user for any other country specified in that paragraph.*

(e) Certification and recordkeeping

Prior to an initial export or reexport to a validated end-user under authorization VEU, exporters or reexporters must obtain certifications from the validated end-user regarding end-use and compliance with VEU requirements. Such certifications must include the contents set forth in Supplement No. 8 to this part. Certifications and all records relating to VEU must be retained by exporters or reexporters in accordance with the recordkeeping requirements set forth in part 762 of the EAR.

(f) Reporting and review requirements

(1) (i) ***Reports.*** Reexporters who make use of authorization VEU are required to submit annual reports to BIS. These reports must include, for each validated end-user to whom the exporter or reexporter exported or reexported eligible items:

(A) The name and address of each validated end-user to whom eligible items were reexported;

(B) The eligible destination to which the items were reexported;

(C) The quantity of such items;

(D) The value of such items; and

(E) The ECCN(s) of such items.

(ii) Reports are due by February 15 of each year, and must cover the period of January 1 through December 31 of the prior year. Reports must be sent to:

Office of Exporter Services
Bureau of Industry and Security
U.S. Department of Commerce
14th Street and Constitution Avenue, NW
Room 2099B
Washington, DC 20230

Mark the package "Authorization Validated End-User Reports".

(2) Reviews. Records related to activities covered by authorization VEU that are maintained by exporters, reexporters, and validated end-users who make use of authorization VEU will be reviewed on a periodic basis. Upon request by BIS, exporters, reexporters, and validated end-users must allow review of records, including on-site reviews covering the information set forth in paragraphs (e) and (f)(1) of this section.

(g) ***Notification requirement***

Exporters and reexporters shipping under Authorization VEU and persons transferring (in-country) under Authorization VEU are required to provide the VEUs to which they are shipping or transferring notice of the shipment or transfer. Such notification must be conveyed to the VEU in writing and must include a list of the VEU-authorized contents of the shipment or transfer and a list of the ECCNs under which the VEU-authorized items in the shipment or transfer are classified, as well as a statement that the items are being, will be, or were shipped or transferred pursuant to Authorization VEU. Notification of the export, reexport or transfer (in-country) to the VEU must be made within a timeframe agreed to in writing by the VEU and the person exporting, reexporting or transferring (in-country). The VEU and the person exporting, reexporting or transferring (in-country) must agree to the notification timeframe prior to the initial shipment or transfer under Authorization VEU. Depending on the agreement between the VEU and the person exporting, reeexporting or transferring (in–country), a notification may be for individual shipments or for multiple shipments. Exporters, reexporters and VEUs are required to maintain the notifications they send or receive in accordance with their recordkeeping requirements.

(h) ***Termination of Conditions on VEU Authorizations***

VEUs that are subject to item-specific conditions and have received items subject to such conditions under Authorization VEU are no longer bound by the conditions associated with the items if the items no longer require a license for export or reexport to the PRC or India, as applicable, or become eligible for shipment under a license exception to the destination. Items that become eligible for a License Exception are subject to the terms and conditions of the applicable License Exception and the restrictions in § 740.2 of the EAR. Items that become eligible for export without a license and that remain subject to the EAR may only be exported, reexported, transferred (in-country) or disposed of in accordance with the requirements of the EAR. Termination of VEU conditions does not relieve a validated end-user of its responsibility for violations that occurred prior to the availability of a license exception or prior to the removal of license requirements.

(i) ***Records***

Records of items that were shipped under Authorization VEU prior to the removal of a license requirement or the availability of a license exception remain subject to the review requirements of paragraph (f)(2) of this section on and after the date that the license requirement was removed or the license exception became applicable.

SUPPLEMENT NO. 1 TO PART 748 - BIS-748P, BIS-748P-A: ITEM APPENDIX, AND BIS-748P-B: END-USER APPENDIX; MULTIPURPOSE APPLICATION INSTRUCTIONS

All information must be legibly typed within the lines for each Block or Box, except where a signature is required. Enter only one typed line of text per Block or line. Where there is a choice of entering telephone numbers or facsimile numbers, and you wish to provide a facsimile number instead of a telephone number, identify the facsimile number with the letter "F" immediately after the number (e.g., 022-358-0-123456F). If you are completing this form to request classification of your item, you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 only.

Block 1: **Contact Person.** Enter the name of the person who can answer questions concerning the application.

Block 2: **Telephone.** Enter the telephone number of the person who can answer questions concerning the application.

Block 3: **Facsimile.** Enter the facsimile number, if available, of the person who can answer questions concerning the application.

Block 4: **Date of Application**. Enter the current date.

Block 5: **Type of Application.**

Export. If the items are located within the United States, and you wish to export those items, mark the Box labeled "Export" with an (X). Reexport. If the items are located outside the United States, mark the Box labeled "Reexport" with an (X).

Classification. If you are requesting BIS to classify your item against the Commerce Control List (CCL), mark the Box labeled "Classification Request" with an (X). If you are submitting a License Exception STA eligibility request pursuant to § 740.20(g), mark the box labeled "Export" with an (X) and then proceed to Block 6 of this supplement for instructions specific to such requests.

Block 6: **Documents submitted with Application.** Review the documentation you are required to submit with your application in accordance with the provisions of part 748 of the EAR, and mark all applicable Boxes with an (X).

Mark the Box "Foreign Availability" with an (X) if you are submitting an assertion of foreign availability with your license application. See part 768 of the EAR for instructions on foreign availability submissions.

If you are *not* making a foreign availability assertion under part 768 of the EAR, you may still mark the box "Foreign Availability" with an (X), if you are submitting an assertion of foreign availability with your license application. Foreign availability assertions covered under part 768 are limited to items controlled for national security reasons. However, if an applicant intends to include foreign availability support material for items not controlled for national security reasons, applicants are permitted to do this as part of the license application by marking the box "Foreign Availability" with an (X) and including the foreign availability information, along with the support material for the license application. Applicants must clearly

label this support material as "Foreign availability information - outside the scope of part 768". Although this information is outside the scope of part 768, applicants should still use Supplement No. 1 to part 768 for general guidance regarding what types of information may be suitable for demonstrating foreign availability. The purpose of submitting this type of foreign availability information will be to make the U.S. Government more aware of the foreign availability of items not controlled for national security reasons.

Mark the "Tech. Specs." box with an (X) if you are submitting descriptive literature, brochures, technical specifications, etc. with your application.

Mark the "Other" box with an (X) and insert the phrase "STA request" for the description of the support document to submit a request for License Exception STA eligibility pursuant to § 740.20(g). (See Supplement No. 2 to part 748 under paragraph (w) for unique application and submission requirements for License Exception STA eligibility requests described under this Block 6.)

Block 7: **Documents on File with Applicant.** Certify that you have retained on file all applicable documents as required by the provisions of part 748 by placing an (X) in the appropriate Box(es).

Block 8: [Reserved]

Block 9: **Special Purpose.** Complete this Block for certain items or types of transactions only if specifically required in Supplement No. 2 to this part.

Block 10: **Resubmission Application Control Number.** If your original application was returned without action (RWA), provide the Application Control Number. This does not apply to applications returned without being registered.

Block 11: **Replacement License Number.** If you have received a license for identical items to the same ultimate consignee, but would like to make a modification that is not excepted in §750.7(c) of the EAR, to the license as originally approved, enter the original license number and complete Blocks 12 through 25, where applicable. Include a statement in Block 24 regarding what changes you wish to make to the original license.

Block 12: **Items Previously Exported.** This Block should be completed only if you have marked the "Reexport" box in Block 5. Enter the license number, License Exception symbol (for exports under General Licenses, enter the appropriate General License symbol), or other authorization under which the items were originally exported, if known.

Block 13: **Import/End-User Certificate.** Enter the name of the country and number of the Import or End User Certificate obtained in accordance with provisions of this part.

Block 14: **Applicant.** Enter the applicant's name, street address, city, state/country, and postal code. Provide a complete street address. P.O. Boxes are not acceptable. Refer to §748.5(a) of this part for a definition of "applicant". If you

have marked "Export" in Block 5, you must include your company's Employer Identification Number unless you are filing as an individual or as an agent on behalf of the exporter. The Employee Identification Number is assigned by the Internal Revenue Service for tax identification purposes. Accordingly, you should consult your company's financial officer or accounting division to obtain this number.

Block 15: **Other Party Authorized to Receive License.** If you would like BIS to transmit the approved license to another party designated by you, complete all information in this Block, including name, street address, city, country, postal code and telephone number. Leave this space blank if the license is to be sent to the applicant. Designation of another party to receive the license does not alter the responsibilities of the applicant.

Block 16: **Purchaser.** Enter the purchaser's complete name, street address, city, country, postal code, and telephone or facsimile number. Refer to §748.5(c) of this part for a definition of "purchaser". If the purchaser is also the ultimate consignee, enter the complete name and address. If your proposed transaction does not involve a separate purchaser, leave Block 16 blank.

Block 17: **Intermediate Consignee.** Enter the intermediate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. Refer to §748.5(d) of this part for a definition of "intermediate consignee". If this party is identical to that listed in Block 16, enter the complete name and address. If your proposed transaction does not involve use of an intermediate consignee, enter "None". If your proposed transaction involves more than one intermediate consignee, provide the same information in Block 24 for each additional intermediate consignee.

Block 18: **Ultimate Consignee.** This Block must be completed if you are submitting a license application. Enter the ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The ultimate consignee is the party who will actually receive the item for the end-use designated in Block 21. Refer to §748.5(e) of this part for a definition of "ultimate consignee". A bank, freight forwarder, forwarding agent, or other intermediary may not be identified as the ultimate consignee. Government purchasing organizations are the sole exception to this requirement. This type of entity may be identified as the government entity that is the actual ultimate consignee in those instances when the items are to be transferred to the government entity that is the actual end-user, provided the actual end-user and end-use is clearly identified in Block 21 or in

the additional documentation attached to the application.

If your application is for the reexport of items previously exported, enter the new ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. If your application involves a temporary export or reexport, the applicant should be shown as the ultimate consignee in care of a person or entity who will have control over the items abroad.

Block 19: **End-User**. Complete this Block only if the ultimate consignee identified in Block 18 is not the actual end-user. If there will be more than one end-user, use Form BIS-748P-B to identify each additional end-user. Enter each end-user's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable.

Block 20: **Original Ultimate Consignee.** If your application involves the reexport of items previously exported, enter the original ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The original ultimate consignee is the entity identified in the original application for export as the ultimate consignee or the party currently in possession of the items.

Block 21: **Specific End-Use.** This Block must be completed if you are submitting a license application. Provide a complete and detailed description of the end-use intended by the ultimate consignee and/or end-user(s). If you are requesting approval of a reexport, provide a complete and detailed description of the end-use intended by the new ultimate consignee or end-user(s) and indicate any other countries for which resale or reexport is requested. If additional space is necessary, use Block 21 on Form BIS-748P-A or B. Be specific—vague descriptions such as “research”, “manufacturing”, or “scientific uses” are not acceptable.

Block 22: For a license application you must complete each of the sub-blocks contained in this Block. If you are submitting a classification request, you need not complete Blocks (e), (f), (g), and (h). If you wish to export, reexport or have BIS classify more than one item, use Form BIS-748P-A for additional items.

(a) **ECCN.** Enter the Export Control Classification Number (ECCN) that corresponds to the item you wish to export or reexport. If you are asking BIS to classify your item, provide a recommended classification for the item in this Block.

(b) **CTP.** You must enter the “Adjusted Peak Performance” (“APP”) in this Block if your application includes a digital computer or equipment containing a computer as described in Supplement No. 2 to this part.

Instructions on calculating the APP are contained in a Technical Note at the end of Category 4 in the CCL.

(c) **Model Number.** Enter the correct model number for the item.

(d) **CCATS Number.** If you have received a classification for this item from BIS, provide the CCATS number shown on the classification issued by BIS.

(e) **Quantity.** Identify the quantity to be exported or reexported, in terms of the unit commonly used in the trade.

(f) **Units.** The unit of quantity used in Block 22(e) must be entered on all license applications submitted to BIS. This Block may be left blank on license applications for technology only.

(g) **Unit Price.** Provide the fair market value of the items you wish to export or reexport. Round all prices to the nearest whole dollar amount. Give the exact unit price only if the value is less than $0.50. If normal trade practices make it impractical to establish a firm contract price, state in Block 24 the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined.

(h) **Total Price.** Provide the total price of the item(s) described in Block 22(j).

(i) **Manufacturer.** Provide the name only of the manufacturer, if known, for each of the items you wish to export, reexport, or have BIS classify, if different from the applicant.

(j) **Technical Description.** Provide a description of the item(s) you wish to export, reexport, or have BIS classify. Provide details when necessary to identify the specific item(s), include all characteristics or parameters shown in the applicable ECCN using measurements identified in the ECCN (e.g., basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc.). These characteristics must be identified for the items in the proposed transaction when they are different than the characteristics described in promotional brochure(s).

Block 23: **Total Application Dollar Value.** Enter the total value of all items contained on the application in U.S. Dollars. The use of other currencies is not acceptable.

Block 24: **Additional Information.** Enter additional data pertinent to the application as required in the EAR. Include special certifications, names of parties of interest not disclosed elsewhere, explanation of documents attached, etc. Do not include information concerning Block 22 in this space.

If your application represents a previously denied application, you must provide the Application Control Number from the original application.

If you are requesting BIS to classify your product, use this space to explain why you believe the ECCN entered in Block 22(a) is appropriate. This explanation must contain an analysis of the item in terms of the technical control parameters specified in the appropriate ECCN. If you have not identified a recommended classification

in Block 22(a), you must state the reason you cannot determine the appropriate classification, identifying anything in the regulations that you believe precluded you from determining the correct classification.

If additional space is necessary, use Block 24 on Form BIS-748P-A or B.

This Block should be completed if your application includes a 9x515 or "600 series" item that is equivalent to a transaction previously approved under an ITAR license or other approval. Enter the previous State license number or other approval identifier in Block 24 of the BIS license application. If more than one previous State license number or other approval identifier is applicable, then enter the most recent one. Only those license applications where the particulars of the EAR license application are equivalent as previously authorized under the ITAR license or other approval in regard to the description of the item (including the item's function, performance capabilities, form and fit), purchaser, ultimate consignee and end users on the license will receive full consideration under this paragraph, which may result in a quicker processing time. The classification of the 9x515 or "600 series" item in question will no longer be the same because the item would no longer be "subject to the ITAR," but all other aspects of the description of the item must be the same in order to be reviewed under this expedited process under paragraph (x) of Supplement No. 2 to part 748 of the EAR.

Block 25: You, as the applicant or duly authorized agent of the applicant, must manually sign in this Block. Rubber-stamped or electronic signatures are not acceptable. If you are an agent of the applicant, in addition to providing your name and title in this Block, you must enter your company's name in Block 24. Type both your name and title in the space provided.

SUPPLEMENT NO. 2 TO PART 748 - UNIQUE APPLICATION AND SUBMISSION REQUIREMENTS

In addition to the instructions contained in Supplement No. 1 to part 748, you must also ensure that the additional requirements for certain items or types of transactions described in this supplement are addressed in your license application. All other blocks not specifically identified in this supplement must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. The term "Block" used in this supplement relates to Form BIS-748P, unless otherwise noted.

(a) Chemicals, medicinals, and pharmaceuticals

If you are submitting a license application for the export or reexport of chemicals, medicinals, and/or pharmaceuticals, the following information must be provided in Block 22.

(1) Facts relating to the grade, form, concentration, mixture(s), or ingredients as may be necessary to identify the item accurately, and;

(2) The Chemical Abstract Service Registry (C.A.S.) numbers, if they exist, must be identified.

(b) Communications intercepting devices

If you are required to submit a license application under §742.13 of this part, you must enter the words "Communications Intercepting Device(s)" in Block 9. The item you are requesting to export or reexport must be specified by name in Block 22(j).

(c) Computers, telecommunications, information security items, and related equipment

If your license application includes items controlled by both Category 4 and Category 5, your license application must be submitted under Category 5 of the Commerce Control List (§774.1 of the EAR) - see Category 5 Part 1 Notes 1 and 2 and Part 2 Note 1. License applications including computers controlled by Category 4 must identify an "Adjusted Peak Performance" ("APP") in Block 22(b). If the principal function is telecommunications, an APP is not required. Computers, related equipment, or software performing telecommunication or local area network functions will be evaluated against the telecommunications performance characteristics of Category 5 Part 1, while information security commodities, software and technology will be evaluated against the information security performance characteristics of Category 5 Part 2.

(1) Requirements for license applications that include computers. If you are submitting a license application to export or reexport computers or equipment containing computers to destinations in Country Group D:1 (See Supplement No. 1 to part 740 of the EAR), or to upgrade existing computer installations in those countries, you must also include technical specifications and product brochures to corroborate the data supplied in your license application, in addition to the APP in Block 22(b).

(2) Security Safeguard Plan requirement. The United States requires security safeguards for exports, reexports, and transfers (in-country) of High Performance Computers (HPCs) to ensure that they are used for peaceful purposes. If you are submitting a license application for an export, reexport, or in-country transfer of a high performance computer to or within a destination in Computer Tier 3 (see §740.7(c)(1) of the EAR) or to Cuba, Iran, North Korea, or Syria you must include with your license application a security safeguard plan signed by the end-user, who may also be the ultimate consignee. This requirement also applies to exports, reexports, and transfers (in-country) of components or

electronic assemblies to upgrade existing "computer" installations in those countries. A sample security safeguard plan is posted on BIS's webpage at http://www.bis.doc.gov/hpcs/SecuritySafeguardPlans.html.

(d) [RESERVED]

(e) Intransit through the United States

If you are submitting a license application for items moving intransit through the United States that do not qualify for the *intransit* provisions of License Exception TMP (see §740.9(b)(1) of the EAR), you must provide the following information with your license application:

(1) In Block 9, enter the phrase "Intransit Shipment";

(2) In Block 24, enter the name and address of the foreign consignor who shipped the items to the United States and state the origin of the shipment;

(3) Any available evidence showing the approval or acquiescence of the exporting country (or the country of which the exporter is a resident) for shipments to the proposed ultimate destination. Such evidence may be in the form of a Transit Authorization Certificate; and

(4) Any support documentation required by §748.9 of this part for the country of ultimate destination.

(f) Intransit outside of the United States

If you are submitting a license application based on General Prohibition Eight stated in §736.2(b)(8) of the EAR and identification of the intermediate consignee in the country of unlading or transit is unknown at the time the license application is submitted, the country of unlading or transit must be shown in Block 17.

(g) Nuclear Nonproliferation items and end-uses

(1) Statement requirement. If a license is required to export or reexport items described in §742.3 of the EAR, or any other item (except those controlled for short supply reasons) where the item is intended for a nuclear end-use, prior to submitting a license application, you must obtain a signed written statement from the end-user certifying the following:

(i) The items to be exported or replicas thereof ("replicas" refers to items produced abroad based on physical examination of the item originally exported, matching it in all critical design and performance parameters), will not be used in any of the activities described in §744.2(a) of the EAR; and

(ii) Written authorization will be obtained from the BIS prior to reexporting the items, unless they are destined to Canada or would be eligible for export from the United States to the new country of destination under NLR based on Country Chart NP Column 1.

(2) License application requirements. Along with the required certification, you must include the following information in your license application:

(i) In Block 7, place an (X) in the box titled "Nuclear Certification";

(ii) In Block 9, enter the phrase "NUCLEAR CONTROLS";

(iii) In Block 21, provide, if known, the specific geographic locations of any installations, establishments, or sites at which the items will be used;

(iv) In Block 22(j), if applicable, include a description of any specific features of design or specific modifications that make the item capable of nuclear explosive activities, or of safeguarded

or unsafeguarded nuclear activities as described in §744.2(a)(3) of the EAR; and

(v) In Block 24, if your license application is being submitted because you know that your transaction involves a nuclear end-use described in §744.2 of the EAR, you must fully explain the basis for your knowledge that the items are intended for the purpose(s) described §744.2 of the EAR. Indicate, if possible, the specific end-use(s) the items will have in designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices or in designing, constructing, fabricating, or operating the facilities described in §744.2(a)(3) of the EAR.

(h) Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies and specially designed software

(1) If you are submitting a license application to export, reexport, or request BIS to classify numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, and specially designed software you must include the following information in your license application:

(i) For numerical control devices and motion control boards:

(A) Make and model number of the control unit;

(B) Description and internal configuration of numerical control device. If the device is a computer with motion control board(s), then include the make and model number of the computer;

(C) Description of the manner in which a computer will be connected to the CNC unit for on-line processing of CAD data. Specify the make and model of the computer;

(D) Number of axes the control unit is capable of simultaneously controlling in a coordinated contouring mode, and type of interpolation (linear, circular, and other);

(E) Minimum programmable increment;

(F) A description and an itemized list of all software/firmware to be supplied with the control device or motion control board, including software/firmware for axis interpolation function and for any programmable control unit or device to be supplied with the control unit;

(G) Description of capabilities related to "real time processing" and receiving computer aided-design.

(H) A description of capability to accept additional boards or software that would permit an upgrade of the electronic device or motion control board above the control levels specified in ECCN 2B001; and

(I) Specify if the electronic device has been downgraded, and if so can it be upgraded in future.

(ii) For numerically controlled machine tools and dimensional inspection machines:

(A) Name and model number of machine tool or dimensional inspection machine;

(B) Type of equipment, e.g., horizontal boring machine, machining center, dimensional inspection machine, turning center, water jet, etc.;

(C) Description of the linear and rotary axes capable of being simultaneously controlled in a coordinated contouring mode, regardless of the fact that the coordinated movement of the machine axis may be limited by

the numerical control unit supplied by the machine tool;

(D) Maximum workpiece diameter for cylindrical grinding machines;

(E) Motion (camming) of the spindle axis measured in the axial direction in one revolution of the spindle, and a description of the method of measurement for turning machine tools only;

(F) Motion (run out) of the spindle axis measured in the radial direction in one revolution of the spindle, and a description of the method of measurement;

(G) Overall positioning accuracy in each axis, and a description of the method for measurement; and

(H) Slide motion test results.

(i) Parts, components, and materials incorporated abroad into foreign-made products

BIS will consider license applications to export or reexport to multiple consignees or multiple countries when an application is required for foreign produced direct product containing parts and components subject to the EAR in §732.4(b) of the EAR and to General Prohibition Two stated in §736.2(b)(2) of the EAR. Such requests will not be approved for countries listed in Country Group E:2 (See Supplement No. 1 to part 740 of the EAR), and may be approved only in limited circumstances for countries listed in Country Group D:1.

(1) License applications for the export of parts and components. If you are submitting a license application for the export of parts, components, or materials to be incorporated abroad into products that will then be sent to designated third countries, you must enter in Block 21, a description of end-use including a general description of the commodities to be manufactured, their typical end-use, and the countries where those commodities will be marketed. The countries may be listed specifically or may be identified by Country Groups, geographic areas, etc.

(2) License applications for the reexport of incorporated parts and components. If you are submitting a license application for the reexport of parts, components, or materials incorporated abroad into products that will be sent to designated third countries you must include the following information in your license application:

(i) In Block 9, enter the phrase “Parts and Components”;

(ii) In Block 18, enter the name, street address, city and country of the foreign party who will be receiving the foreign-made product. If you are requesting approval for multiple countries or consignees enter “Various” in Block 18, and list the specific countries, Country Groups, or geographic areas in Block 24;

(iii) In Block 20, enter the name, street address, city, and country of the foreign party who will be exporting the foreign-made product incorporating U.S. origin parts, components or materials;

(iv) In Block 21, describe the activity of the ultimate consignee identified in Block 18 and the end-use of the foreign-made product. Indicate the final configuration if the product is intended to be incorporated in a larger system. If the end-use is unknown, state “unknown” and describe the general activities of the end-user;

(v) In Block 22(e), specify the quantity for each foreign-made product. If this information is unknown, enter “Unknown” in Block 22(e);

(vi) In Block 22(h), enter the digit “0" for each foreign-made product;

(**vii)** In Block 22(j), describe the foreign-made product that will be exported, specifying type and model or part number. Attach brochures or specifications, if available. Show as part of the description the unit value, in U.S. dollars, of the foreign-made product (if more than one foreign-made product is listed on the license application, specify the unit value for each type/model/part number). Also include a description of the U.S. content (including the applicable Export Control Classification Number(s)) and its value in U.S. dollars. If more than one foreign-made product is identified on the license application, describe the U.S. content and specify the U.S. content value for each foreign-made product. Also, provide sufficient supporting information to explain the basis for the stated values. To the extent possible, explain how much of the value of the foreign-made product represents foreign origin parts, components, or materials, as opposed to labor, overhead, etc. When the U.S. content varies and cannot be specified in advance, provide a range of percentage and value that would indicate the minimum and maximum U.S. content;

(viii) Include separately in Block 22(j) a description of any U.S. origin spare parts to be reexported with the foreign-made product, if they exceed the amount allowed by §740.10 of the EAR. Enter the quantity, if appropriate, in Block 22(e). Enter the ECCN for the spare parts in Block 22(a) and enter the value of the spare parts in Block 22(h);

(ix) In Block 23, enter the digit “0";

(x) If the foreign-made product is the direct product of U.S. origin technology that was exported or reexported subject to written assurance, a request for waiver of that assurance, if necessary, may be made in Block 24. If U.S. origin technology will accompany a shipment to a country listed in Country Group D:1, E:1, or E:2 (see Supplement No. 1 to part 740 of the EAR) describe in Block 24 the type of technology and how it will be used.

(j) Ship stores, plane stores, supplies, and equipment

(1) Vessels under construction. If you are submitting a license application for the export or reexport of items, including ship stores, supplies, and equipment, to a vessel under construction you must include the following information in your license application:

(i) In Block 18, enter the name, street address, city, and country of the shipyard where vessel is being constructed;

(ii) In Block 22(j), state the length of the vessel for a vessel under 12 m (40 ft) in length. For a vessel 12 m (40 ft) in length or over, provide the following information (if this information is unknown, enter “Unknown” in this Block):

(A) Hull number and name of vessel;

(B) Type of vessel;

(C) Name and business address of prospective owner, and the prospective owner's nationality; and

(D) Country of registry or intended country of registry.

(2) Aircraft under construction. If you are submitting a license application for the export or reexport of items, including plane stores, supplies, and equipment, to an aircraft under construction you must include the following information in your license application:

(i) In Block 18, enter the name and address of the plant where the aircraft is being constructed;

(ii) In Block 22(j), enter the following information (if this information is unknown, enter "Unknown" in this Block):

(A) Type of aircraft and model number;

(B) Name and business address of prospective owner and his nationality; and

(C) Country of registry or intended country of registry.

(3) Operating vessels and aircraft. If you are submitting a license application for the export or reexport of items, including ship or plane stores, supplies, and equipment to an operating vessel or aircraft, whether in operation or being repaired, you must include the following information in your license application:

(i) In Block 18, enter the name of the owner, the name of the vessel, if applicable, and port or point where the items will be taken aboard;

(ii) In Block 18, enter the following statement if, at the time of filing the license application, it is uncertain where the vessel or aircraft will take on the items, but it is known that the items will not be shipped to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR):

> Uncertain; however, shipment(s) will not be made to Country Groups D:1 or E:2.

(iii) Provide information as described in paragraph (j)(1)(ii) of this supplement for vessels or information contained in paragraph (j)(2)(ii) of this supplement for aircraft.

(k) Regional stability controlled items

(1) If you are submitting a license application for the export or reexport of items controlled for regional stability reasons and subject to licensing under RS Column 1 on the Country Chart, your license application must be accompanied by full technical specifications.

(2) If you are submitting a license application for the export or reexport to Austria, Cyprus, Finland, Ireland, Israel, Malta, Mexico, Singapore or Sweden of items controlled by ECCNs 2A984, 2D984 or 2E984 to a person designated by a government end-user, pursuant to contract, your license application to export to such designated person must include a statement from the government end-user to be eligible for the licensing policy under §742.6(b)(2)(ii). A responsible official representing the designated end-user must sign the statement. "Responsible official" is defined as someone with personal knowledge of the information included in the statement, and authority to bind the designated end-user for whom they sign, and who has the power and authority to control the use and disposition of the licensed items. Statements from government end-users that the person is so designated (*i.e.*, support documents submitted in accordance with this paragraph (k)(2)) must address the following three criteria for a license application to be reviewed in accordance with the license review policy in §742.6(b)(2)(ii):

(i) U.S. Department of Homeland Security (DHS) Customer Contract Number or agreement reference number, End-user name (company), complete address (including street address, city, state, country and postal code), end-user point of contact (POC);

(ii) Brief contract description, including DHS Project information and projected outcome; and

(iii) The statement shall include a certification stating "We certify that all of the representations in this statement are true and correct to the best of our knowledge and we do not know of any additional representations which are inconsistent with the above statement."

(l) Reexports

If you know that an item that requires a license to be exported from the United States to a certain foreign destination will be reexported to a third destination also requiring approval, such a request must be included on the license application. The license application must specify the country to which the reexport will be made in Block 24. If the export does not require a license but the reexport does, you may apply for a license for the reexport, or you may export without a license and notify the consignee of the requirement to seek a license to reexport.

(m) Robots

If you are submitting a license application for the export or reexport of items controlled by ECCNs 2B007 or 2D001 (including robots, robot controllers, end-effectors, or related software) the following information must be provided in Block 24:

(1) Specify if the robot is equipped with a vision system and its make, type, and model number;

(2) Specify if the robot is specially designed to comply with national safety standards for explosive munitions environments;

(3) Specify if the robot is specially designed for outdoor applications and if it meets military specifications for those applications;

(4) Specify if the robot is specially designed for operating in an electro-magnetic pulse (EMP) environment;

(5) Specify if the robot is specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation, and its rating in grays (Silicon);

(6) Describe the robot's capability of using sensors, image processing or scene analysis to generate or to modify robot program instructions or data;

(7) Describe the manner in which the robot may be used in nuclear industry/manufacturing; and

(8) Specify if the robot controllers, end-effectors, or software are specially designed for robots controlled by ECCN 2B007, and why.

(n) Short Supply controlled items

If you are submitting a license application for the export of items controlled for short supply reasons, you must consult part 754 of the EAR for instructions on preparing your license application.

(o) Technology

(1) License application instructions. If you are submitting a license application for the export or reexport of technology you must check the box labeled “Letter of Explanation” in Block 6, enter the word “Technology” in Block 9, leave Blocks 22(e) and (i) blank, and include a general statement that specifies the technology (e.g., blueprints, manuals, etc.) in Block 22(j).

(2) Letter of explanation. Each license application to export or reexport technology must be supported by a comprehensive letter of explanation. This letter must describe all the facts for a complete disclosure of the transaction including, if applicable, the following information:

(i) The identities of all parties to the transaction;

(ii) The exact project location where the technology will be used;

(iii) The type of technology to be exported or reexported;

(iv) The form in which the export or reexport will be made;

(v) The uses for which the data will be employed;

(vi) An explanation of the process, product, size, and output capacity of all items to be produced with the technology, if applicable, or other description that delineates, defines, and limits the data to be transmitted (the "technical scope"); and

(vii) The availability abroad of comparable foreign technology.

(3) Special provisions.

(i) ***Technology controlled for national security reasons*****.** If you are submitting a license application to export technology controlled for national security reasons to a country *not* listed in Country Group D:1, E:1, or E:2 (see Supplement No. 1 to part 740 of the EAR), upon request, you must provide BIS a copy of the written letter from the ultimate consignee assuring that, unless prior authorization is obtained from BIS, the consignee will not knowingly reexport the technology to any destination, or export the direct product of the technology, directly or indirectly, to a country listed in Country Group D:1, E:1, or E:2 (see Supplement No. 2 to part 740 of the EAR). If you are unable to obtain this letter of assurance from your consignee, you must state in your license application why the assurances could not be obtained.

(ii) ***Maritime nuclear propulsion plants and related items*****.** If you are submitting a license application to export or reexport technology relating to maritime nuclear propulsion plants and related items including maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities you must include the following information in your license application:

(A) A description of the foreign project for which the technology will be furnished;

(B) A description of the scope of the proposed services to be offered by the applicant, his consultant(s), and his subcontractor(s), including all the design data that will be disclosed;

(C) The names, addresses and titles of all personnel of the applicant, the applicant's consultant(s) and subcontractor(s) who will discuss or disclose the technology or be involved in the design or development of the technology;

(D) The beginning and termination dates of the period of time during which the technology will be discussed or disclosed and a proposed time schedule of the reports the applicant will submit to BIS, detailing the technology discussed or disclosed during the period of the license;

(E) The following certification:

> I (We) certify that if this license application is approved, I (we) and any consultants, subcontractors, or other persons employed or retained by us in connection with the project licensed will not discuss with or disclose to others, directly or indirectly, any technology relating to U.S. naval nuclear propulsion plants. I (We) further certify that I (we) will furnish to the Bureau of Industry and Security all reports and information it may require concerning specific transmittals or disclosures of technology under any license granted as a result of this license application.

(F) A statement of the steps that you will take to assure that personnel of the applicant, the applicant's consultant(s) and subcontractor(s) will not discuss or disclose to others technology relating to U.S. naval nuclear propulsion plants; and

(G) A written statement of assurance from the foreign importer as described in paragraph (o)(3)(i) of this Supplement.

(p) Temporary exports or reexports

If you are submitting a license application for the temporary export or reexport of an item (not eligible for the *temporary exports and reexports* provisions of License Exception TMP (see §740.9(a) of the EAR)) you must include the following certification in Block 24:

> The items described on this license application are to be temporarily exported (or reexported) for (state the purpose e.g., demonstration, testing, exhibition, etc.), used solely for the purpose authorized, and returned to the United States (or originating country) as soon as the temporary purpose has ended, but in no case later than one year of the date of export (or reexport), unless other disposition has been authorized in writing by the Bureau of Industry and Security.

(q) Chemicals controlled for CW reasons under ECCN 1C350

In addition to any supporting documentation required by part 748, you must also obtain from your consignee an End-Use Certificate for the export of chemicals controlled for CW reasons by ECCN 1C350 to non-States Parties (destinations *not* listed in Supplement No. 2 to part 745 of the EAR). See §745.2 of the EAR. In addition to the End-Use Certificate, you may still be required to obtain a Statement by Ultimate Consignee and Purchaser (Form BIS-711P) as support documentation. Consult §§748.9 and 748.11 of the EAR.

(r) Encryption classification requests

Failure to follow the instructions in this paragraph may delay consideration of your encryption classification request.

(1) [RESERVED]

(2) Classification Requests. Fill out blocks 1-4, 14, 15, 22, and 25 pursuant to the instructions in Supplement No. 1 to this Part. Leave blocks 6, 7, 8, 10-13, 18-21, and 23 blank. Follow the directions specified for the blocks indicated below.

(i) In Block 5 (Type of Application), place an "X" in the box marked "classification" or "commodity classification" if submitting electronically for classification requests.

(ii) In Block 9 (Special Purpose).

(A) If submitting via SNAP-R, check the box "check here if you are submitting information about encryption required by 740.17 or 742.15 of the EAR."

(B) From the drop down menu in SNAP-R, choose:

(1) “License Exception ENC” if you are submitting an encryption classification request for specified License Exception ENC provisions (§§ 740.17(b)(2) or (b)(3) of the EAR);

(2) “Mass market encryption” if you are submitting an encryption classification request for certain mass market encryption items (§ 740.17(b) of the EAR).

(3) “Encryption - other” if you are submitting an encryption classification, for another reason.

(s) [RESERVED]

(t) [RESERVED]

(u) Aircraft and vessels on temporary sojourn.

If the application is for an aircraft or a vessel traveling on a temporary sojourn, state the value of the aircraft or vessel as $0 in box 22(g) (unit price) and 22(h) (total price). In box 23 (Total Application Dollar Value), insert the total value of items other than the aircraft or vessel that are included in the same application. If the application is only for the aircraft or vessel on temporary sojourn, insert $0.

(v) In-country transfers.

To request an in-country transfer, you must specify "in-country transfer" in Block 9 (Special Purpose) and mark "Reexport" in Block 5 (Type of Application) of the BIS-748P "Multipurpose Application" form. The application also must specify the same foreign country for both the original ultimate consignee and the new ultimate consignee.

(w) License Exception STA eligibility requests for "600 series" end items.

To request a License Exception STA eligibility requests for "600 series" end items pursuant to § 740.20(g), you must mark an (X) in the "Export" box in Block 5 (Type of Application) block. You must mark an (X) in the "Other" box and insert the phrase "STA request" " in Block 6 (Documents submitted with application) block. You must include the specific "600 Series" ECCN in Block 22. In addition to the ECCN, you will need to provide sufficient information for the U.S. Government to make a determination as to STA eligibility. This will require you to submit more than merely a description of the end item. In particular, you will need to provide supporting information for why you believe that the end item does not, for example, provide a critical military or intelligence advantage to the United States or is available in countries that are not regime partners or close allies. You will also need to provide information regarding whether and, if so, how the end item is controlled by the export control laws and regulations of close allies and regime partners, if known. If you are not able to provide some of the information described above, the U.S. Government will still evaluate the request, including using resources and information that may only be available to the U.S. Government. However, when submitting such requests you are encouraged to provide as much information as you can based on the criteria noted above to assist the U.S. Government in evaluating these License Exception STA eligibility requests. In addition, you should provide BIS with the text you would propose BIS use in describing the end item in the appropriate "600 series" ECCN and the online table referenced in § 740.20(g)(5)(i) in anticipation that the request may be approved pursuant to § 740.20(g). You may submit additional information that you believe is relevant to the U.S. Government in reviewing the License Exception STA eligibility request as part of that support document or as an additional separate support document attachment to the license application.

(x) ***License application for a transaction involving a 9x515 or "600 series" item that is equivalent to a transaction previously approved under an ITAR license or other approval.***

To request that the U.S. Government review of a license application for a 9x515 or "600 series" item also take into consideration a previously approved ITAR license or other approval, applicants must also include the State license number or other approval identifier in Block 24 of the BIS license application (see the instructions in Supplement No. 1 to part 748 under Block 24).

NOTE TO PARAGRAPH (x): *License*

applications submitted under paragraph (x) will still be reviewed in accordance with license review procedures and timelines identified in part 750, including §§ 750.3 and 750.4. Applicants are advised that including a previously approved State license or other approval may have no effect on the license review process since each application is reviewed on its own merits at the time of submission. However, in some cases, previous licensing history may result in license applications being reviewed more quickly.

(y) ***Satellite exports*.**

(1) A license application to export a satellite controlled by ECCN 9A515.a for launch in or by a country that is not a member of the North Atlantic Treaty Organization (NATO) or a major non-NATO ally of the United States (as defined in 22 CFR 120.31 and 120.32), must include a statement affirming that at the time of application or prior to export or reexport the following will be in place:

(i) A technology transfer control plan approved by the Department of Defense and an encryption technology control plan approved by the National Security Agency, or drafts reflecting advance discussions with the departments and information identifying the U.S. Government officials familiar with the preparation of such draft plans; and

(ii) Evidence of arrangements with the Department of Defense for monitoring of the launch activities.

(2) A license application to export a satellite controlled by ECCN 9A515.a for launch in or by a country that is a member of the North Atlantic Treaty Organization (NATO) or that is a major non-NATO ally of the United States (as defined in 22 CFR 120.31 and 120.32), must include a statement affirming that at the time of application or prior to export or reexport the following will be in place:

(i) A technology transfer control plan approved by the Department of Defense and an encryption technology control plan approved by the National Security Agency, or documentation from the Department of Defense that such plans are not required; and

(ii) Evidence of arrangements with the Department of Defense for monitoring of the launch or documentation from the Department of Defense that such monitoring is not required.

NOTE 1 TO PARAGRAPH (y): *Regardless of a satellite's or spacecraft's jurisdictional status, ownership, or origin, the ITAR controls as a "defense service" the furnishing of assistance (including training) by a U.S. person to a foreign person directly related to (a) the integration of a satellite or spacecraft to a launch vehicle or (b) launch failure analyses. See (See 22 CFR 121, Categories IV(i) and XV(f), and 22 CFR 124.15).*

(z) ***Exports of firearms and certain shotguns temporarily in the United States.***

(1) *Certification*. If you are submitting a license application for the export of firearms controlled by ECCN 0A501.a or .b, or shotguns with a barrel length less than 18 inches controlled in ECCN 0A502 that will be temporarily in the United States, *e.g.*, for servicing and repair or for intransit shipments, you must include the following certification in Block 24:

> The firearms in this license application will not be shipped from or manufactured in Russia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Turkmenistan, Ukraine, or Uzbekistan, except for any firearm model controlled by 0A501 that is specified under Annex A in Supplement No. 4 to part 740. I and the parties to this transaction will comply with the requirements specified in paragraphs (z)(2)(i) and (ii) of Supplement No. 2 to part 748.

(2) *Requirements*. Each approved license for commodities described under this paragraph (z) must comply with the requirements specified in paragraphs (z)(2)(i) and (ii) of this supplement.

(i) When the firearms enter the U.S. as a temporary import, the temporary importer or its agent must:

(A) Provide the following statement to U.S. Customs and Border Protection: "This shipment is being temporarily imported in accordance with the EAR. This shipment will be exported in accordance with and under the authority of BIS license number (provide the license number) (15 CFR 750.7(a) and 758.4);"

(B) Provide to U.S. Customs and Border Protection an invoice or other appropriate import-related documentation (or electronic equivalents) that includes a complete list and description of the firearms being temporarily imported, including their model, make, caliber, serial numbers, quantity, and U.S. dollar value; and

(C) Provide (if temporarily imported for servicing or replacement) to U.S. Customs and Border Protection the name, address, and contact information (telephone number and/or email) of the organization or individual in the U.S. that will be receiving the item for servicing or replacement); and

(ii) In addition to the export clearance requirements of part 758 of the EAR, the exporter or its agent must provide the import documentation related to paragraph (z)(2)(i)(B) of this supplement to U.S. Customs and Border Protection at the time of export.

Note 1 to paragraph (z): *In addition to complying with all applicable EAR requirements for the export of commodities described in paragraph (z) of this supplement, exporters and temporary importers should contact U.S. Customs and Border Protection (CBP) at the port of temporary import or export, or at the CBP website, for the proper procedures for temporarily importing or exporting firearms controlled in ECCN 0A501.a or .b or shotguns with a barrel length less than 18 inches controlled in ECCN 0A502, including regarding how to provide any data or documentation required by BIS.*

SUPPLEMENT NO. 3 TO PART 748 - STATEMENT BY ULTIMATE CONSIGNEE AND PURCHASER CONTENT REQUIREMENTS

If a statement on company letterhead will be used to meet the requirement to obtain a Statement by Ultimate Consignee and Purchaser, as described in § 748.11(a), follow the requirements described in paragraph (a) below. If Form BIS-711 will be used to meet the requirement, follow the requirements described in paragraph (b) below.

(a) Statement on company letterhead.

Information in response to each of the following criteria must be included in the statement. If any information is unknown, that fact should be disclosed in the statement. Preprinted information supplied on the statement, including the name, address, or nature of business of the ultimate consignee or purchaser appearing on the letterhead or order form is acceptable but will not constitute evidence of either the signer's identity, the country of ultimate destination, or end use of the items described in the license application.

(1) Paragraph 1. One of the following certifications must be included depending on whether the statement is proffered in support of a single license application or multiple license applications:

(i) ***Single.*** This statement is to be considered part of a license application submitted by [name and address of applicant].

(ii) ***Multiple.*** This statement is to be considered a part of every license application submitted by [name and address of applicant] until four years from the date this statement is signed.

(2) Paragraph 2. One or more of the following certifications must be included. Note that if any of the facts related to the following statements are unknown, this must be clearly stated.

(i) The items for which a license application will be filed by [name of applicant] will be used by us as capital equipment in the form in which received in a manufacturing process in [name of country] and will not be reexported or incorporated into an end product.

(ii) The items for which a license application will be filed by [name of applicant] will be processed or incorporated by us into the following product(s) [list products] to be manufactured in [name of country] for distribution in [list name of country or countries].

(iii) The items for which a license application will be filed by [name of applicant] will be resold by us in the form in which received for use or consumption in [name of country].

(iv) The items for which a license application will be filed by [name of applicant] will be reexported by us in the form in which received to [name of country or countries].

(v) The items received from [name of applicant] will be [describe use of the items fully].

(3) Paragraph 3. The following two certifications must be included:

(i) The nature of our business is [possible choices include: broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc.].

(ii) Our business relationship with [name of applicant] is [possible choices include; contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.] and we have had this business relationship for [number of years].

(4) Paragraph 4. The final paragraph must include all of the following certifications:

(i) We certify that all of the facts contained in this statement are true and correct to the best of our knowledge and we do not know of any additional facts that are inconsistent with the above statements. We shall promptly send a replacement statement to [name of the applicant] disclosing any material change of facts or intentions described in this statement that occur after this statement has been prepared and forwarded to [name of applicant]. We acknowledge that the making of any false statement or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both, and denial, in whole or in part, of participation in U.S. exports or reexports.

(ii) Except as specifically authorized by the U.S. Export Administration Regulations, or by written approval from the Bureau of Industry and Security, we will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement:

(A) To any country not approved for export as brought to our attention by the exporter; or

(B) To any person if there is reason to believe that it will result directly or indirectly in disposition of the items contrary to the representations made in this statement or contrary to the U.S. Export Administration Regulations.

(iii) We understand that acceptance of this statement as a support document cannot be construed as an authorization by BIS to reexport or transfer (in country) the items in the form in which received even though we may have indicated the intention to reexport or transfer (in country), and that authorization to reexport (or transfer in country) is not granted in an export license on the basis of information provided in the statement, but as a result of a specific request in a license application.

(b) Form BIS-711.

Form BIS-711 is available at http://www.bis.doc.gov/index.php/component/rsform/form/21-request-bis-forms?task=forms.edit. Instructions on completing Form BIS–711 are described below. The ultimate consignee and purchaser may sign a legible copy of Form BIS–711. It is not necessary to require the ultimate consignee and purchaser to sign an original Form BIS–711, provided all information contained on the copy is legible. All information must be typed or legibly printed in each appropriate Block or Box.

(1) Block 1: Ultimate Consignee. The Ultimate Consignee must be the person abroad who is actually to receive the material for the disposition stated in Block 2. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as the Ultimate Consignee.

(2) Block 2: Disposition of Use of Items by Ultimate Consignee named in Block 1. Place an (X) in “A.,” “B.,” “C.,” “D.,” and “E.,” as appropriate, and fill in the required information.

(3) Block 3: Nature of Business of Ultimate Consignee named in Block 1. Complete both “A” and “B”. Possible choices for “A” include: broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc. Possible choices for “B” include: contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.

(4) Block 4: Additional Information. Provide any other information not appearing elsewhere on the form such as other parties to the transaction, and any other material facts that may be of value in considering license applications supported by this statement.

(5) Block 5: Assistance in Preparing Statement. Name all persons, other than employees of the ultimate consignee or purchaser, who assisted in the preparation of this form.

(6) Block 6: Ultimate Consignee. Enter the requested information and sign the statement in ink. (For a definition of ultimate consignee, see §748.5(e) of this part.)

(7) Block 7: Purchaser. This form must be signed in ink by the Purchaser, if the Purchaser is not the same as the Ultimate Consignee identified in Block 1. (For a definition of purchaser, see §748.5(c) of this part.)

(8) Block 8: Certification for Exporter. This Block must be completed to certify that no correction, addition, or alteration on this form was made subsequent to the signing by the Ultimate Consignee in Block 6 and Purchaser in Block 7.

SUPPLEMENT NO. 4 TO PART 748 - [RESERVED]

SUPPLEMENT NO. 5 TO PART 748 - U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE

The United States participates in an Import Certificate/Delivery Verification procedure. Under this procedure, U.S. importers are sometimes required to provide their foreign suppliers with an U.S. International Import Certificate that is validated by the U.S. Government. This certificate tells the government of the exporter's country that the items covered by the certificate will be imported into the U.S. Economy and will not be reexported except as authorized by U.S. export control regulations. In addition, in some cases, the exporter's government may require a delivery verification. Under this procedure, the U.S. Customs Service validates a certificate confirming that the items have entered the U.S. economy. The U.S. importer must return this certificate to the foreign exporter.

This supplement establishes the procedures and requirements of BIS with respect to both of these programs. Paragraph (a) of this Supplement contains the requirements and procedures of the U.S. International Import Certificate procedure. Paragraph (b) of this Supplement contains the requirements and procedures of the Delivery Verification procedure.

(a) U.S. International Import Certificates

If you are a U.S. importer, a foreign supplier may request you to obtain a U.S. import certificate. The reason for this request is that the exporter's government requires a U.S. import certificate as a condition to issuing an export license. To obtain such a certificate you will have to fill in and execute the U.S. International Import Certificate form (Form BIS-645P/ATF-4522/DSP-53) and submit it to the U.S. government agency that has jurisdiction over the items you are importing. In doing so, you will be making a representation to the United States Government that you will import the items described in the certificate into the United States or if not so imported, you will not divert, transship or reexport them to another destination with the explicit approval of the U.S. government agency that has jurisdiction over those items. (Representations that items will be entered into the U.S. do not preclude the temporary unloading of items in a foreign trade zone for subsequent entry into the economy of the U.S.) If the items described in the certificate are subject to U.S. Department of Commerce jurisdiction, the Department will validate the certificate and return it to you. You may then send the certificate to your foreign supplier. In this way the government of the exporting country is assured that the items will become subject to the export control laws of the United States.

(1) Items for which the U.S. Department of Commerce issues U.S. International Import Certificates and forms to use. The Department of Commerce issues U.S. International Import Certificates for the following types of items.

(i) ***Items controlled for National Security reasons.*** Items under the export licensing jurisdiction of BIS that are identified as controlled for national security reasons on the Commerce Control List (Supplement No. 1 to part 774 of the EAR). You will need to submit in triplicate a completed Form BIS-645P/ATF-4522/DSP-53;

(ii) ***Nuclear equipment and materials.*** Items subject to the export licensing jurisdiction of the Nuclear Regulatory Commission for nuclear equipment and materials. (see 10 CFR part 110). You will need to submit in quadruplicate a completed Form BIS-645P/ATF-4522/DSP-53; and

(iii) ***Munitions Items.*** Items listed on the U.S. Munitions List (see 22 CFR part 121) that do not appear on the more limited U.S. Munitions

Import List (27 CFR 47.21). You will need to submit in triplicate a completed Form BIS-645P. For triangular transactions (See paragraph (a)(5) of this Supplement) involving items on the U.S. Munitions List, you must contact the Department of State, Directorate of Defense Trade Controls and use Form BIS-645P/ATF-4522/DSP-53. You should contact the Treasury Department, Bureau of Alcohol, Tobacco and Firearms for items appearing on the U.S. Munitions Import List. You will need to use Form ATF-4522.

(2) Where to submit forms. U.S. International Import Certificates and requests to amend certificates may be presented for validation either in person or by mail at the following locations.

(i) By courier to the Bureau of Industry and Security, Room 2099B, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230, Attn: Import Certificate Request; or

(ii) In person or by mail at one of the following Department of Commerce U.S. and Foreign Commercial Service District Offices:

Boston, MA
Buffalo, NY
Chicago, IL
Cincinnati, OH
Cleveland, OH
Dallas, TX
Detroit, MI
Houston, TX
Kansas City, MO
Los Angeles, CA
Miami, FL
New Orleans, LO
New York, NY
Philadelphia, PA
Phoenix, AZ
Pittsburgh, PA
Portland, OR
St. Louis, MO
San Francisco, CA
Savannah, GA
Seattle, WA
Trenton, NJ

(3) U.S. International Import Certificate validity periods. The U.S. International Import Certificate must be submitted to the foreign government within six months from the date of certification by the U.S. Department of Commerce. The expiration of this six-month period in no way affects the responsibility of the importer to fulfill the commitments made in obtaining the certificate. If the certificate is not presented to the government of the exporting country before the expiration of its validity period, the exporter must apply for a new certificate. The original unused U.S. International Import Certificate must be returned to BIS at the address specified in paragraph (a)(2)(i) of this supplement.

(4) Statements on the certificate or amendments are representations to the U.S. Government which continue in effect.

(i) All statements and representations made in a U.S. International Import Certificate or an amendment thereto, will be deemed to be continuing in nature until the transaction described in the certificate is completed and the items are delivered into the economy of the importing country.

(ii) Any change of fact or intention in regard to the transaction described in the certificate shall be promptly disclosed to BIS by the U.S. importer by presentation of an amended certificate. The amended certificate must describe all of the changes and be accompanied by the original certificate bearing the certification of BIS. If the original certificate has been transferred to the foreign exporter, you must, where possible, attempt to obtain the original certificate prior to applying for an amendment. If the original certificate is unobtainable because the foreign exporter has submitted it to the appropriate foreign government, or for any other reason, then you must submit a written statement with your

amendment giving the reasons for your failure to submit the original certificate.

(5) Certificates for Triangular transaction (items will not enter the U.S. or applicant is not sure that they will enter the United States).

(i) In accordance with international practice, BIS will, upon request, stamp the certificate with a triangular symbol as notification to the government of the exporting country that the U.S. importer is uncertain whether the items will be imported into the U. S. or knows that the items will not be imported into the U.S., but that, in any case, the items will not be delivered to any other destination except in accordance with the EAR.

(ii) The triangular symbol on a certificate U.S. International Import Certificate is not, in and of itself, an approval by BIS to transfer or sell items to a foreign consignee. Note that a triangular Certificate will not be issued covering foreign excess property sold abroad by the U.S. Department of Defense.

(6) Approval to export items to a foreign consignee prior to delivery under a U.S. International Import Certificate. The written approval of BIS is required before items covered by a U.S. International Import Certificate (whether or not bearing a triangular symbol) may be shipped to a destination other than the U.S. or Canada or sold to a foreign purchaser, and before title to or possession of such items may be transferred to a foreign transferee. This requirement does not apply after the items have been delivered in accordance with the undertaking set forth in the Certificate or if at the time of such shipment, sale, passage of possession or passage of title, a License Exception or a NLR provision of the EAR would authorize the transaction.

(i) If prior approval is required, a letter requesting authorization to release the shipment shall be submitted to BIS at the address listed in paragraph (a)(2)(i) of this supplement.

(ii) The letter must contain the certificate number; date issued; location of the issuing office; names, addresses, and identities of all parties to the complete transaction; and the quantity, dollar value, and description of the items. The letter must be accompanied by the U.S. International Import Certificate, and all other documentation required by the EAR for the item and country of ultimate destination, as identified in part 748 of the EAR. If requirements stated in part 748 of the EAR do not apply to your transaction, you must identify the intended end-use of the items in your letter.

(iii) Where the letter request is approved and is supported by a foreign import certificate, no further approval from BIS is required for the purchaser or transferee to resell or again transfer the items. However, where BIS approves a request that was not supported by a foreign import certificate, the person to whom approval is granted is required to inform the purchaser or transferee, in writing, that the items are to be shipped to the approved destination only and that no other disposition of the items is permitted without the approval of BIS.

(iv) If the transaction is approved, a validated letter of approval will be sent to the U.S. purchaser for retention in his records. Where a DV or other official government confirmation of delivery is required, the letter will so indicate.

(v) If the items covered by a certificate have been imported into a destination other than the U.S. and the foreign exporter of the items requests a Delivery Verification, the person who obtained the certificate must obtain a DV from the person to whom the items were delivered in the actual importing country. (If a DV is unobtainable, other official government confirmation of delivery must be obtained.) The DV or other official government confirmation of delivery must be submitted to BIS together with an explanatory letter giving the U.S. International Import Certificate number,

date issued, and location of issuing office. BIS will then issue Form ITA-6008, Delivery Compliance Notice, in two copies, the original of which must be forwarded to the country of origin in order to serve as evidence to the exporting country that the requirements of the U.S. Government have been satisfied with respect to delivery of the items.

(vi) ***Delivery, sale, or transfer of items to another U.S. purchaser.***

(A) Items covered by a U.S. International Import Certificate may not be sold, and title to or possession of such items may not be transferred, to another U.S. purchaser or transferee before the items are delivered to the U.S. (or to an approved foreign destination, as provided by paragraph (a)(5) of this Supplement), except in accordance with the provisions described in paragraph (a)(6) of this Supplement. The provisions of this paragraph do not apply after the items have been delivered in accordance with the undertaking set forth in the certificate.

(B) Resale or transfer to another U.S. purchaser or transferee requires the prior approval of BIS only in cases where the buyer or transferee is listed in Supplement No. 1 to part 766 of the EAR. However, you, as the person who obtained the certificate are required to notify BIS of any change in facts or intentions relating to the transaction, and in all cases you will be held responsible for the delivery of the items in accordance with the EAR. You are required in all cases to secure, prior to sale or transfer, and to retain in your files in accordance with the recordkeeping provisions contained in part 762 of the EAR, written acceptance by the purchaser or transferee of:

(1) All obligations undertaken by, and imposed under the EAR, upon the holder of the certificate; and

(2) An undertaking that all subsequent sales or transfers will be made subject to the same conditions.

(C) The responsibility of the certificate holder for obtaining a DV also applies to those cases where the items are resold to a U.S. purchaser (See paragraph (b)(1) of this Supplement.)

(vii) ***Reexport or transshipment of items after delivery to U.S.*** **Items imported into the U.S.** under the provisions of a U.S. International Import Certificate may not be reexported to any destination under the *intransit* provisions of License Exception TMP (see §740.9(b)(1) of the EAR). However, all other provisions of the EAR applicable to items of domestic origin shall apply to the reexport of items of foreign origin shipped to the U.S. under a U.S. International Import Certificate.

(viii) ***Lost or destroyed U.S. International Import Certificates.*** If a U.S. International Import Certificate is lost or destroyed, a duplicate copy may be obtained by the person in the U.S. who executed the original U.S. International Import Certificate by submitting to any of the offices listed in paragraph (a)(2)(i) of this supplement new Form BIS-645P/ATF-4522/DSP-53 in the same way as an original request, except that the forms shall be accompanied by a letter detailing the circumstances under which the original certificate was lost or destroyed and certifying:

(A) That the original U.S. International Import Certificate No. _____, dated _____, issued to (name and address of U.S. importer) for import from (foreign exporter's name and address) has been lost or destroyed; and

(B) That if the original U.S. International Import Certificate is found, the applicant agrees to return the original or duplicate of the certificate to the Bureau of Industry and Security.

(ix) ***Unused U.S. International Import Certificates.*** If the transaction will not be completed and the U.S. International Import Certificate will not be used, return the certificate for cancellation to BIS at the address listed in paragraph (a)(2)(i) of this supplement.

(b) Delivery Verification Certificate

U.S. importers may be requested by their foreign suppliers to furnish them with a certified Form BIS-647P, Delivery Verification Certificate, covering items imported into the U.S. These requests are made by foreign governments to assure that strategic items shipped to the U.S. are not diverted from their intended destination. In these instances, the issuance of an export license by the foreign country is conditioned upon the subsequent receipt of a Delivery Verification Certificate from the U.S. importer. Accordingly, your compliance with your foreign exporter's request for a Delivery Verification is necessary to ensure your foreign exporter fulfills its government obligations and is able to participate in future transactions with you. Failure to comply may subject your exporter to penalties that may prevent future trade.

(1) The responsibility of a person or firm executing a U.S. International Import Certificate for providing the foreign exporter with confirmation of delivery of the items includes instances where the items are resold or transferred to another U.S. person or firm prior to actual delivery to the U.S. or to an approved foreign destination. The person who executed the U.S. International Import Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in your files in accordance with the recordkeeping provisions stated in part 762 of the EAR:

(i) Acceptance of the obligation to provide the purchaser or transferee with either the Delivery Verification (or other official government confirmation of delivery if a Delivery Verification is unobtainable) or assurance that this document was submitted to BIS; and

(ii) An undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor must transmit to the U.S. purchaser or transferee the U.S. International Import Certificate number covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

(2) Completion and certification of Delivery Verification Certificates. If you are requested by your foreign exporter to provide a Delivery Verification, you must obtain Form BIS-647P from a U.S. customs office or one of the offices listed in paragraph (a)(2) of this supplement and complete all blocks (except those below the line titled "To be completed by U.S. Customs Service") on the form. The language used in the block titled "Description of Goods" must describe the items in the same terms as those shown on the applicable U.S. International Import Certificate. Upon completion Form BIS-647P must be presented, in duplicate, to a U.S. customs office. The U.S. customs office will certify Form BIS-647P only where the import is made under a warehouse or consumption entry.

(3) Disposition of certified Delivery Verification Certificates. The importer must send the original certified Delivery Verification Certificate to the foreign exporter or otherwise dispose of it in accordance with the instructions of the exporting country. The duplicate copy will be retained by the U.S. customs office.

(4)(i) ***Issuance of a U.S. Delivery Compliance Notice in lieu of a Delivery Verification Certificate.*** If you are requested to provide a Delivery Verification Certificate but do not wish to disclose the name of your customer to the foreign exporter (e.g., in the event that the items are resold or transferred to another person or firm before the items enter the U.S.), you may submit

an originally completed Form BIS-647P together with an explanatory letter requesting a Delivery Compliance Notice, to BIS at the address listed in (a)(2)(i) of this supplement.

(ii) BIS will provide you with a notice signifying that the items were imported into the U.S. and that a satisfactory DV has been submitted to BIS. You must then forward the original notice to your foreign exporter for submission to the foreign government. A copy of the notice should be retained in your files in accordance with the recordkeeping provisions stated in part 762 of the EAR.

(5)(i) ***Lost or destroyed Delivery Verification Certificate*.** When a Delivery Verification Certificate is lost or destroyed, the U.S. importer must submit a letter to BIS at the address listed in paragraph (a)(2)(i) of this supplement certifying that:

(A) The original Delivery Verification Certificate has been lost or destroyed;

(B) The circumstances under which it was lost or destroyed;

(C) The type of customs entry (warehouse or consumption), entry number, and date of entry; and

(D) The number and date of the related U.S. International Import Certificate.

(ii) BIS will, in applicable cases, notify the exporting government that a Delivery Verification Certificate been issued.

(c) Penalties and sanctions for violations

The enforcement provisions of part 764 and Supplement No. 2 to part 736 of the EAR apply to transactions involving imports into the U.S. covered by this supplement and to both foreign and U.S. parties involved in a violation of this supplement. Any provisions of part 764 and Supplement No. 2 to part 736 of the EAR which, by their terms, relate to "exports" or "exports from the U.S." are also deemed to apply and extend to imports into the U.S., applications for U.S. International Import Certificates (Forms BIS-645P presented to U.S. Department of Commerce for certification), U.S. International Import Certificates, and Delivery Verification Certificates, described in this supplement. (Applications the documents described in this supplement, are included within the definition of export control documents provided in part 772 of the EAR.) Refer to §764.3 of the EAR for more information.

SUPPLEMENT NO. 6 TO PART 748 - AUTHORITIES ISSUING IMPORT CERTIFICATES UNDER THE FIREARMS CONVENTION [RESERVED]

[RESERVED]

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

SUPPLEMENT NO. 7 TO PART 748 – AUTHORIZATION VALIDATED END-USER (VEU): LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATONS

The VEU List is in a separate electronic file

SUPPLEMENT NO. 8 TO PART 748 - INFORMATION REQUIRED IN REQUESTS FOR VALIDATED END-USER (VEU) AUTHORIZATION

VEU authorization applicants must provide to BIS certain information about the prospective validated end-user. This information must be included in requests for authorization submitted by prospective validated end-users, or exporters or reexporters who seek to have certain entities approved as validated end-users. BIS may, in the course of its evaluation, request additional information.

Required Information for Validated End-User Authorization Requests

(1) Name of proposed VEU candidates, including all names under which the candidate conducts business; complete company physical address (simply listing a post office box is insufficient); telephone number; fax number; e-mail address; company Web site (if available); and name of individual who should be contacted if BIS has any questions. If the entity submitting the application is different from the prospective validated end-user identified in the application, this information must be submitted for both entities. If the candidate has multiple locations, all physical addresses located in the eligible destination must be listed.

(2) Provide an overview of the structure, ownership and business of the prospective validated end-user. Include a description of the entity, including type of business activity, ownership, subsidiaries, and joint-venture projects, as well as an overview of any business activity or corporate relationship that the entity has with either government or military organizations.

(3) List the items proposed for VEU authorization approval and their intended end-uses. Include a description of the items; the ECCN for all items, classified to the subparagraph level, as appropriate; technical parameters for the items including performance specifications; and end-use description for the items. If BIS has previously classified the item, the Commodity Classification Automated Tracking System (CCATS) number may be provided in lieu of the information listed in the foregoing provisions of this paragraph.

(4) Provide the physical address(es) of the location(s) where the item(s) will be used, if this address is different from the address of the prospective validated end-user provided in paragraph (1) of this supplement.

(5) If the prospective validated end-user plans to reexport or transfer the item, specify the destination to which the items will be reexported or transferred.

(6) Specify how the prospective validated end-user's record keeping system will allow compliance with the recordkeeping requirements set forth in §748.15(e) of the EAR. Describe the system that is in place to ensure compliance with VEU requirements.

(7) Include an original statement on letterhead of the prospective validated end-user, signed and dated by a person who has authority to legally bind the prospective validated end-user, certifying that the end-user will comply with all VEU requirements. This statement must include acknowledgement that the prospective end-user:

(i) Has been informed of and understands that the item(s) it may receive as a validated end-user will have been exported in accordance with the EAR and that use or diversion of such items contrary to the EAR is prohibited;

(ii) Understands and will abide by all authorization VEU end-use restrictions, including the requirement that items received

under authorization VEU will only be used for authorized end-uses and may not be used for any activities described in part 744 of the EAR;

(iii) Will comply with VEU recordkeeping requirements; and

(iv) Agrees to allow on-site reviews by U.S. Government officials to verify the end-user's compliance with the conditions of the VEU authorization.

SUPPLEMENT NO. 9 TO PART 748 - END-USER REVIEW COMMITTEE PROCEDURES

(1) The End-User Review Committee (ERC), composed of representatives of the Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for determining whether to add to, to remove from, or otherwise amend the list of validated end-users and associated eligible items set forth in Supplement No. 7 to this part. The Department of Commerce chairs the ERC.

(2) Unanimous vote of the Committee is required to authorize VEU status for a candidate or to add any eligible items to a pre-existing authorization. Majority vote of the Committee is required to remove VEU authorization or to remove eligible items from a pre-existing authorization.

(3) In addition to requests submitted pursuant to §748.15, the ERC will also consider candidates for VEU authorization that are identified by the U.S. Government. When the U.S. Government identifies a candidate for VEU authorization, relevant parties (i.e., end-users and exporters or reexporters, when they can be identified) will be notified, before the ERC determines whether VEU authorization is appropriate, as to which end-users have been identified as potential VEU authorization candidates. End-users are not obligated to accept the Government's nomination.

(4) The ERC will make determinations whether to grant VEU authorization to each VEU candidate no later than 30 calendar days after the candidate's complete application is circulated to all ERC agencies. The Committee may request additional information from an applicant or potential validated end-user related to a particular VEU candidate's application. The period during which the ERC is waiting for additional information from an applicant or potential validated end-user is not included in calculating the 30 calendar day deadline for the ERC's determination.

(5) If an ERC agency is not satisfied with the decision of the ERC, that agency may escalate the matter to the Advisory Committee on Export Policy (ACEP). The procedures and time frame for escalating any such matters are the same as those specified for license applications in Executive Order 12981, as amended by Executive Orders 13020, 13026 and 13117 and referenced in §750.4 of the EAR.

(6) A final determination at the appropriate decision-making level to amend the VEU authorization list set forth in Supplement No. 7 to this part operates as clearance by all member agencies to publish the amendment in the Federal Register.

(7) The Deputy Assistant Secretary of Commerce for Export Administration will communicate the determination on each VEU request to the requesting party and the end-user.