

§ 744.8

15 CFR Ch. VII (1-1-03 Edition)

(3) *Applicable commodities.* This § 744.7 applies to the commodities listed subject to the provisions in paragraph (b) of this section:

(i) Fuel, except crude petroleum and blends of unrefined crude petroleum with petroleum products, which is of non-Naval Petroleum Reserves origin or derivation (refer to short supply controls in part 754 of the EAR);

(ii) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements, except crude petroleum, provided that any commodities which are listed in Supplement No. 2 to part 754 of the EAR are of non-Naval Petroleum Reserves origin or derivation (refer to short supply controls in part 754 of the EAR);

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles;

(vi) Saloon stores or supplies; and

(vii) Equipment and spare parts.

[61 FR 12802, Mar. 25, 1996, as amended at 65 FR 38160, June 19, 2000]

§ 744.8 Restrictions on certain exports to all countries for Libyan aircraft.

(a) *General end-use prohibition for Libyan aircraft.* In addition to the license requirements for items specified on the CCL, you may not export or reexport to any destination such parts and accessories specified in paragraph (b) of this section if intended for use in the manufacture, overhaul, or rehabilitation in any country of aircraft that will be exported or reexported to Libya or Libyan nationals.

(b) *Scope of products subject to end-use prohibition for Libyan aircraft.* The general end-use prohibition in paragraph (a) of this section applies to items controlled by ECCNs 6A008, 6A108, 6A998, 7A001, 7A002, 7A003, 7A004, 7A006, 7A101, 7A102, 7A103, 7A104, 7A994, 9A001, 9A003, 9A018.a, 9A101, and 9A991.

[61 FR 12802, Mar. 25, 1996, as amended at 63 FR 42229, Aug. 7, 1998]

§ 744.9 Restrictions on technical assistance by U.S. persons with respect to encryption items.

(a) *General prohibition.* No U.S. person may, without authorization from BIS, provide technical assistance (including training) to foreign persons with the

intent to aid a foreign person in the development or manufacture outside the United States of encryption commodities and software that, if of United States origin, would be controlled for EI reasons under ECCN 5A002 or 5D002. Technical assistance may be exported immediately to nationals of the countries listed in Supplement 3 to part 740 of the EAR (except for technical assistance to government end-users for cryptanalytic items) provided the exporter has submitted to BIS a completed classification request by the time of export. Note that this prohibition does not apply if the U.S. person providing the assistance has a license or is otherwise entitled to export the encryption commodities and software in question to the foreign person(s) receiving the assistance. Note in addition that the mere teaching or discussion of information about cryptography, including, for example, in an academic setting or in the work of groups or bodies engaged in standards development, by itself would not establish the intent described in this section, even where foreign persons are present.

(b) *Definition of U.S. person.* For purposes of this section, the term U.S. person includes:

(1) Any individual who is a citizen or permanent resident alien of the United States;

(2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and

(3) Any person in the United States.

(c) *License review standards.* Applications involving activities described in this section will be reviewed on a case-by-case basis to determine whether the activity is consistent with U.S. national security and foreign policy interests.

[61 FR 68584, Dec. 30, 1996, as amended at 65 FR 62609, Oct. 19, 2000]

§ 744.10 Restrictions on certain entities in Russia.

(a) *General prohibition.* Certain entities in Russia are included in Supplement No. 4 to this part 744 (Entity List). (See also § 744.1(c) of the EAR.) Exporters are hereby informed that these entities are ineligible to receive

any items subject to the EAR without a license.

(b) *Exceptions.* No License Exceptions apply to the prohibition described in paragraph (a) of this section.

(c) *License review standards.* Applications to export or reexport items subject to the EAR to these entities will be reviewed with a presumption of denial.

[64 FR 14605, Mar. 26, 1999]

§§ 744.11–744.12 [Reserved]

§ 744.13 Restrictions on exports and certain reexports to specially designated terrorists.

Consistent with the purpose of Executive Order 12947 of January 23, 1995, BIS maintains restrictions on exports and certain reexports to Specially Designated Terrorists. Executive Order 12947 prohibits transactions by U.S. persons with terrorists who threaten to disrupt the Middle East peace process. Pursuant to the Executive Order, the Department of the Treasury, Office of Foreign Assets Control (OFAC), maintains 31 CFR part 595, the Terrorism Sanctions Regulations. In the Appendices to 31 CFR Chapter V, pursuant to 31 CFR part 595, these Specially Designated Terrorists are identified by the bracketed suffix initials [SDT]. The requirements set forth below further the objectives of Executive Order 12947.

(a) *License requirement(s).* (1) All exports and reexports to an SDT by a U.S. person of any item subject to the EAR; and

(2) A license requirement applies to all exports and reexports to an SDT of any item subject to the EAR on the Commerce Control List (CCL).

(3) To avoid duplication, U.S. persons are not required to seek separate authorization for an export or reexport subject both to the EAR and to OFAC's Terrorism Sanctions Regulations. Therefore, if OFAC authorizes an export or reexport by a U.S. person to a SDT, no separate authorization from BIS is necessary.

(4) Any export or reexport by a U.S. person of any item subject to both the EAR and OFAC's Terrorism Sanctions Regulations and not authorized by OFAC is a violation of the EAR. Any export from abroad or reexport by a

non-U.S. person of items requiring a license pursuant to this section and not authorized by BIS is a violation of the EAR.

(5) These licensing requirements supplement any other requirements set forth elsewhere in the EAR.

(b) *Exceptions.* No License Exceptions or other BIS authorization for items described by paragraph (a) of this section are available for exports or reexports to SDTs.

(c) *Licensing policy.* Applications for licenses required by paragraph (a) of this section generally will be denied. You should consult with OFAC concerning transactions subject to OFAC licensing requirements.

(d) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

[64 FR 1121, Jan. 8, 1999]

§ 744.14 Restrictions on exports and certain reexports to designated foreign terrorist organizations.

Consistent with the objectives of sections 302 and 303 of the Anti-Terrorism and Effective Death Penalty Act (Anti-Terrorism Act) (Pub.L. 104-132, 110 Stat. 1214-1319), BIS maintains restrictions on exports and certain reexports to designated Foreign Terrorist Organizations. The Secretary of State has designated certain designated Foreign Terrorist Organizations pursuant to section 302 of the Anti-Terrorism Act. Also pursuant to section 302 of the Anti-Terrorism Act, the Department of the Treasury, Office of Foreign Assets Control, maintains 31 CFR part 597, the Foreign Terrorist Organizations Sanctions Regulations, requiring U.S. financial institutions to block all financial transactions involving assets of designated Foreign Terrorist Organizations within the possession or control of such U.S. financial institutions. Section 303 of the Anti-Terrorism Act prohibits persons within the United States or subject to U.S. jurisdiction from knowingly providing material support or resources to a designated Foreign Terrorist Organization and makes violations punishable by criminal penalties under title 18, United States Code. These designated Foreign Terrorist Organizations are listed in the