

contact Airbus for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

(c) Accomplishment of Airbus Modification 21202 in accordance with Airbus Service Bulletin A320-53-1033, Revision 3, dated July 4, 1994, constitutes terminating action for the repetitive inspection requirement of paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) Except as provided by paragraph (b) of this AD, the inspections and repairs shall be done in accordance with Airbus Service Bulletin A320-53-1034, dated March 30, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 97-314-108(B), dated October 22, 1997.

(g) This amendment becomes effective on February 12, 1999.

Issued in Renton, Washington, on December 30, 1998.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*  
[FR Doc. 99-179 Filed 1-7-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### 15 CFR Parts 744 and 772

[Docket No. 981013256-8256-01]

RIN 0694-AB63

#### Revisions to the Export Administration Regulations; Exports and Reexports to Specially Designated Terrorists and Foreign Terrorist Organizations

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule amends the end-user and end-use control policy of the Export Administration Regulations (EAR) to impose new foreign policy controls on exports and certain reexports to persons identified as Specially Designated Terrorists or Foreign Terrorist Organizations and listed in the Appendices to 31 CFR Chapter V published by the Department of the Treasury, Office of Foreign Assets Control (OFAC). (The term "person" includes individuals as well as entities or other organizations.)

Specifically, this rule creates a new § 744.10 and § 744.11 that set forth the license requirements for exports and certain reexports of items subject to the EAR to these persons. To avoid duplication, the Bureau of Export Administration (BXA) will not require a separate license when the Office of Foreign Assets Control has authorized an export or reexport to a Specially Designated Terrorist.

**DATES:** *Effective Date:* This rule is effective January 8, 1999. *Comment Date:* Comments on this rule must be received on or before February 8, 1999.

**ADDRESSES:** Written comments (six copies) should be sent to Denis Kerner, Office of Export Enforcement, Bureau of Export Administration, Room 4616, 14th Street and Constitution Ave., N.W., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Joan Roberts, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Department of Commerce, Telephone: (202) 482-0171.

#### SUPPLEMENTARY INFORMATION:

##### Background

This rule amends part 744 of the EAR by imposing new foreign policy controls on exports and certain reexports of items subject to the EAR to persons identified as Specially Designated Terrorists or Foreign Terrorist Organizations. Numerous persons have been determined pursuant to Executive

Order 12947 of January 23, 1995 (3 CFR, 1995 Comp., p. 319, as amended by Executive Order 13099 of August 20, 1998 (63 FR 45167, August 25, 1998)) to be disrupting the Middle East Peace Process. These persons have been identified as Specially Designated Terrorists, are subject to OFAC's Terrorism Sanctions Regulations (31 CFR part 595) and are listed in Appendices to 31 CFR Chapter V followed by the bracketed suffix initials [SDT].

In addition, certain organizations have been designated by the Secretary of State as Foreign Terrorist Organizations pursuant to 8 U.S.C. 1189 and are listed in Appendices to 31 CFR Chapter V followed by the bracketed suffix initials [FTO] and identified by State and Treasury Department notices. Funds of these organizations are subject to blocking pursuant to OFAC's Foreign Terrorist Organizations Sanctions Regulations (31 CFR part 597). Criminal sanctions may also be imposed against any person subject to the jurisdiction of the United States who provides material support or resources to an FTO pursuant to 18 U.S.C. 2339. BXA is revising the EAR to further U.S. counterterrorism objectives. This rule revises part 744 of the Export Administration Regulations (EAR) by describing the license requirements for exports and certain reexports to SDTs and FTOs of items subject to the EAR.

(a) For SDTs, a license is required for:

- (1) All exports and reexports by a U.S. person of any item subject to the EAR; and
- (2) All exports and reexports by any person of any item subject to the EAR on the Commerce Control List (CCL).

To avoid duplication, exporters are not required to seek separate authorizations from BXA and from OFAC for an export or reexport subject both to the EAR and to OFAC's Terrorism Sanctions Regulations. OFAC regulations apply to transactions by U.S. persons with SDTs. Therefore, if OFAC authorizes a transaction involving an export or reexport by a U.S. person to a designated SDT, no separate authorization from BXA is necessary. An authorization issued by OFAC constitutes authorization under the EAR. Transactions not covered under OFAC regulations (e.g., reexports by non-U.S. persons to SDTs of items subject to the EAR on the CCL) will require a license from BXA under this rule.

(b) For FTOs, a license is required for:

- (1) All exports and reexports by a U.S. person of any item subject to the EAR; and
- (2) All exports and reexports by any person of any item subject to the EAR on the CCL.

Exporters are required to seek authorization from BXA for exports and certain reexports to FTOs. Applications for exports and reexports of all items to FTOs identified by paragraphs (1) and (2) above will generally be denied, to the extent they constitute material support or resources, as defined in 18 U.S.C. 2339A(b).

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the Export Administration Regulations and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629) and August 13, 1998 (63 FR 44121).

Under a policy of conforming actions under the Executive Order to those under the EAA, insofar as appropriate, the Department of Commerce notified the Congress of this imposition of foreign policy controls on December 15, 1998.

#### Rulemaking Requirements

1. This final rule has been determined to be significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor may be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694-0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective

date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close February 8, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of

Information Officer, at the above address or by calling (202) 482-2593.

#### List of Subjects

##### 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

##### 15 CFR Part 772

Exports, Foreign trade.

Accordingly, parts 744 and 772 of the Export Administration Regulations (15 CFR Parts 730-774) are amended as follows:

#### PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997); Notice of August 13, 1998 (63 FR 44121).

2. The authority citation for 15 CFR part 772 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997); Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

3. A new § 744.13 is added to read as follows:

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

Consistent with the purpose of Executive Order 12947 of January 23, 1995, BXA 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 BXA 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 BXA 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 BXA 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.

4. A new section 744.14 is added to read as follows:

**§ 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), BXA 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 Appendices to 31 CFR Chapter V and identified by the bracketed suffix initials [FTO]. The export control requirements set forth below further the objectives of the Anti-Terrorism Act.

(a) *License requirement(s).* A license requirement applies to:

(1) All exports and reexports to an FTO of any item subject to the EAR on the Commerce Control List (CCL); and

(2) All exports and reexports to an FTO by a U.S. person of any item subject to the EAR.

(3) Any export or reexport by a U.S. person prohibited by the EAR and not authorized by BXA 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 BXA is a violation of the EAR.

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

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

(c) *Licensing policy.* Applications for exports and reexports to FTOs of all items identified by paragraphs (a)(1) and (a)(2) of this section will generally be denied, to the extent they constitute material support or resources, as defined in 18 U.S.C. 2339A(b).

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

**Note to § 744.14.** This section does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

**PART 772—[AMENDED]**

5. Part 772 is amended:

a. By adding a definition for foreign terrorist organization;

b. By revising the heading for the definition of Specially Designated Terrorist; and

c. By revising the introductory text of paragraph (a) for the definition of "U.S. person" to read as follows:

**PART 772—DEFINITIONS OF TERMS**

\* \* \* \* \*

*Foreign Terrorist Organizations (FTO).* Any organization that is determined by the Secretary of the Treasury to be a foreign terrorist organization under notices or regulations issued by the Office of Foreign Assets Control (see 31 CFR chapter V).

\* \* \* \* \*

*Specially Designated Terrorist (SDT).*

\* \* \* \* \*

\* \* \* \* \*

*U.S. person.* (a) For purposes of §§ 744.6, 744.10, and 744.11 of the EAR, the term U.S. person includes:

\* \* \* \* \*

Dated: December 29, 1998.

**R. Roger Majak,**

*Assistant Secretary for Export Administration.*

[FR Doc. 99-334 Filed 1-7-99; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 162**

[T.D. 99-4]

RIN 1515-AC33

**Mandatory Seizure of Certain Plastic Explosives**

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations regarding the types of merchandise that are required to be seized and forfeited if introduced or attempted to be introduced into the United States contrary to law. The Customs Regulations reflect the statutory list of such merchandise set forth in 19 U.S.C. 1595a(c)(1). That statute was amended to add plastic explosives not containing a detection agent to the list of merchandise required to be seized and forfeited. This document conforms the Customs Regulations to that statutory change.

**EFFECTIVE DATE:** January 8, 1999.

**FOR FURTHER INFORMATION CONTACT:** Todd J. Schneider, Penalties Branch, 202-927-1694.

**SUPPLEMENTARY INFORMATION:**