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Bureau of Industry and Security

**15 CFR Parts 732, 738, 740 et al.
Export and Reexport Controls for Iraq;
Interim Final Rule**

DEPARTMENT OF COMMERCE**Bureau of Industry and Security**

15 CFR Parts 732, 738, 740, 742, 744, 746, 747, 750, 758, 762, 772 and 774

[Docket No. 040302078-4078-01]

RIN 0694-AC84

Export and Reexport Controls for Iraq

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to implement the reversion to the Department of Commerce from the Department of the Treasury of the licensing responsibility for exports and reexports to Iraq of items subject to the EAR. In addition, a license will be required for certain transfers within Iraq of items subject to the EAR. This rule is consistent with United Nations Security Council Resolutions 1483 (2003) and 1546 (2004), which lifted the comprehensive United Nations trade embargo imposed on Iraq but retained an embargo on arms and related materiel and their means of production.

DATES: This rule is effective July 30, 2004. Comments must be received on or before August 30, 2004.

ADDRESSES: Written comments should be sent to Sheila Quarterman, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044, or to e-mail: squarter@bis.doc.gov. The Bureau of Industry and Security Freedom of Information Records Inspection Facility is located at Room 6881, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044; telephone: (202) 482-4252, or e-mail:

jroberts@bis.doc.gov. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Industry and Security Freedom of Information Officer at the above address or by calling (202) 482-0500.

SUPPLEMENTARY INFORMATION:**Background**

This rule establishes the new export control policy for exports to Iraq under the licensing responsibility of the Bureau of Industry and Security (BIS). The new export control policy reflects changed circumstances in Iraq and is consistent with changes in U.S. legal authorities concerning Iraq and actions taken by the United Nations Security Council with respect to the embargo against Iraq.

The President has signed an Executive Order terminating the national emergency declared in Executive Order 12722, revoking it and certain related Executive Orders. Among other things, the termination of the national emergency in those Executive Orders ends the Department of the Treasury's authority to maintain export controls pursuant to those orders and related regulations, namely the Iraqi Sanctions Regulations, 31 CFR part 575. By virtue of this action, primary export licensing jurisdiction reverts to BIS.

In addition, Section 1503 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108-11), authorized the President to make inapplicable, with respect to Iraq, Section 620A of the Foreign Assistance Act and any other provision of law applicable to countries that have supported terrorism. On May 7, 2003, the President exercised this authority by the issuance of Presidential Determination 2003-23, which, among other things, suspended the application of the provisions of the Iraq Sanctions Act of 1990 (Pub. L. 101-513), except section 586E (relating to penalties). In particular, the President's action suspended the requirement in section 586G(a)(3) of the Iraq Sanctions Act that items controlled under sections 5 and 6 of the Export Administration Act (50 U.S.C. App. 2401 *et seq.*) (EAA) be prohibited for export to Iraq and made inapplicable with respect to Iraq section 620A of the Foreign Assistance Act and any other provision of law that applies to countries that have supported terrorism.

Further, on May 22, 2003, the United Nations Security Council (UNSC) adopted Resolution 1483 that lifted the comprehensive UNSC trade sanctions on Iraq while retaining restrictions on the sale or supply to Iraq of arms and

related materiel and their means of production. Resolution 1483 also reiterated certain provisions of related UNSC Resolutions 707 of August 15, 1991, and 687 of April 3, 1991. In particular, those provisions require that Iraq eliminate its nuclear weapons program and restrict its nuclear activities to the use of isotopes for medical, industrial or agricultural purposes. Such provisions further mandate the elimination of Iraq's chemical and biological weapons programs as well as its ballistic missile program. Sale or supply by U.S. entities that would make a material contribution to any of these programs is prohibited.

Finally, on June 8, 2004, the UNSC adopted Resolution 1546. In this resolution, the UNSC decided that prohibitions related to the sale or supply to Iraq of arms and related materiel under previous resolutions shall not apply to such items required by the Interim Government of Iraq or the Multinational Force in Iraq to serve the purposes of the resolution. Provisions in UNSC Resolutions 687 and 707 noted above are not affected by UNSC Resolution 1546.

License Requirements for Exports and Reexports to Iraq and Certain Transfers Within Iraq*Overview*

The new Iraq export licensing policy significantly reduces the level of control over commercial exports to Iraq while retaining restrictions on the export of multilaterally-controlled items and other sensitive items to Iraq in keeping with Iraq's new economic and security status. The licensing requirements and licensing policy reflected in this rule are consistent with UNSC Resolution 1483 (2003) and other relevant resolutions which lifted the comprehensive trade embargo imposed on Iraq but retained certain restrictions including an embargo on arms and related materiel and their means of production.

This rule is designed to address two significant foreign policy goals with respect to Iraq. In particular, this rule furthers the goal of ensuring that exports and reexports of controlled items destined to civil infrastructure rebuilding do not suffer undue licensing delays. At the same time, in furtherance of applicable UNSC Resolutions and U.S. foreign policy interests, this rule revises section 746.3 of the Export Administration Regulations (15 CFR parts 730-799) (EAR) and retains substantial restrictions on exports to Iraq destined for inappropriate end-users or end-uses. In addition, this rule addresses certain transactions involving

the transfer of items subject to the EAR within Iraq.

Items for Which Export License Requirements Are Generally Lifted

Under this rule, items subject to the EAR but not listed on the Commerce Control List (15 CFR part 774) (CCL) (*i.e.*, EAR99 items) will generally not be subject to a license requirement except pursuant to the end-user and end-use controls set forth in part 744 of the EAR and revised section 746.3 of the EAR. Items controlled only for anti-terrorism (AT) reasons on the CCL, except for items controlled under six Export Control Classification Numbers (ECCNs), will also not be subject to a licensing requirement, except for the end-use and end-user requirements noted above. The six ECCNs controlled for AT reasons only for which licensing requirements are imposed by this rule are: 0B999 (Specific processing equipment such as hot cells and glove boxes suitable for use with radioactive materials), 0D999 (Specific software for neutronic calculations, radiation transport calculations and hydrodynamic calculations/modeling), 1B999 (Specific processing equipment such as electrolytic cells for fluorine production and particle accelerators), 1C992 (Commercial charges containing energetic materials, *n.e.s.*), 1C999 (Specific Materials, *n.e.s.*) and 6A992 (Optical Sensors, not controlled by 6A002). Please note that this rule retains AT controls for items controlled under ECCNs 1C995 (Certain mixtures and testing kits) and 1C997 (Ammonium Nitrate).

As a result, in most instances, the new policy will allow the export or reexport to Iraq, or the transfer within Iraq, without a license, of items classified as EAR99 or controlled only for AT reasons.

Also, the *de minimis* rules applicable to Iraq are amended to provide generally that reexports of items to Iraq from abroad are subject to the EAR only when U.S.-origin controlled content in such items exceeds 25% (as opposed to the existing 10%).

Items for Which Export License Requirements Will Be Retained

This rule retains license requirements for the export or reexport of items on the multilateral export control regime lists, the Wassenaar Arrangement, the Nuclear Suppliers' Group, the Australia Group and the Missile Technology Control Regime, and items controlled for crime control (CC) or regional stability (RS) reasons. These license requirements are set forth in part 742 of the EAR and are reflected in the relevant

columns of the Country Chart in Supplement No. 1 to part 738 of the EAR. Certain categories of items that are controlled for reasons not included on the Country Chart (*e.g.*, encryption (EI), short supply (SS), and Chemical Weapons (CW)) also require a license for export or reexport to Iraq or transfer within Iraq.

New License Requirements

A license is required for the transfer within Iraq of any item subject to the EAR exported or reexported pursuant to a specific license issued by the Department of the Treasury or a Department of Commerce specific license or License Exception.

Section 746.3 of this rule imposes a license requirement for the export, reexport, or transfer of items subject to the EAR if, at the time of the export, reexport, or transfer, you know, have reason to know, or are informed by BIS that the item will be, or is intended to be, used in Iraq for a "military end-use" or by a "military end-user", as defined in that section. This license requirement does not apply to exports, reexports, or transfers of items for the official use by personnel or agencies of the U.S. Government or exports, reexports, or transfers to the Interim Government of Iraq or the Multinational Force in Iraq. This new license requirement is in addition to the existing license requirements established pursuant to the Enhanced Proliferation Control Initiative (EPCI), as set forth in part 744 of the EAR. The EPCI requirements will now also apply to the transfer within Iraq of any item subject to the EAR, if, at the time of the transfer, you know, have reason to know, or are informed by BIS that the item will be used in the design, development, production or use of weapons of mass destruction or the means of their delivery.

In addition, transfers within Iraq to designated terrorists or terrorist organizations, as set forth in sections 744.12, 744.13, or 744.14 of the EAR, and transfers to any persons referenced in new section 744.18 of the EAR, will require a license.

In addition to the license requirements described above, items on the CCL controlled for united nations (UN) reasons (including shotgun shells controlled under ECCN 0A986) will require a license for export or reexport to Iraq or transfer within Iraq, except exports, reexports or transfers to the Interim Government of Iraq or the Multinational Force in Iraq.

In this rule, BIS also will delete from the CCL the entry for ECCN 6A018, "Magnetic, pressure, and acoustic underwater detection devices specially

designed for military purposes and controls and components." References to ECCN 6A018 in entries for ECCNs 6E001 and 6E002 also will be removed. BIS has determined that no items subject to the EAR are controlled under this entry. Such items are subject to the export licensing authority of the U.S. Department of State Division of Defense Trade Controls.

Licensing Policy

Except as set forth in revised section 746.3, license applications for exports or reexports to Iraq and certain transfers within Iraq will be reviewed on a case-by-case basis pursuant to applicable licensing policies set forth in parts 742, 744 or elsewhere in the EAR.

Such review will be conducted consistent with UNSC Resolutions 1483 and 1546, and relevant resolutions, including UNSC Resolutions 687 and 707. UNSC Resolution 1483 reaffirms Iraq's disarmament obligations contained in prior UNSC resolutions relating to nuclear, chemical and biological weapons as well as ballistic missiles (defined for Iraq as those capable of a range greater than 150 kilometers). UNSC Resolutions 1483 and 1546 also retain restrictions on the sale or supply to Iraq of arms and related materiel and their means of production, and limit Iraq's civil or military nuclear activity, except for use of isotopes for medical, industrial or agricultural purposes. UNSC Resolution 1546 affirms these restrictions, while permitting exports, reexports, and transfers to the Interim Government of Iraq or the Multinational Force in Iraq.

Reason for Control: Chemical and Biological Weapons (CB)

CB-controlled exports and reexports to Iraq, and transfers within Iraq, will be reviewed on a case-by-case basis. Unless the export, reexport, or transfer is determined to contribute to the building of Iraqi civil infrastructure, there will be a general policy of denial for CB-controlled items.

Reason for Control: Nuclear Nonproliferation (NP)

NP-controlled exports and reexports to Iraq, and transfers within Iraq, will be reviewed on a case-by-case basis. Unless the export, reexport, or transfer is determined to contribute to the building of Iraqi civil non-nuclear infrastructure, there will be a general policy of denial for subsystems or components or any nuclear weapons research, development, support, or manufacturing facilities.

Reason for Control: National Security (NS)

NS-controlled machine tool equipment, software and technology exports and reexports to Iraq, and transfers within Iraq, will be reviewed on a case-by-case basis. Unless the export, reexport, or transfer is determined to contribute to the building of Iraqi civil infrastructure, there will be a general policy of denial for items for the production, research, design, development, support, maintenance or manufacture of Iraqi weapons of mass destruction or ballistic missiles (for Iraq, defined as those with a range of 150 km or greater) or arms and related materiel.

Reason for Control: Missile Technology (MT)

MT-controlled exports and reexports to Iraq, and transfers within Iraq, will be reviewed on a case-by-case basis. Unless the export, reexport, or transfer is determined to contribute to the building of Iraqi civil infrastructure, there will be a general policy of denial for major parts, repair and production facilities related to ballistic missiles with a range greater than 150 kilometers.

Licensing Policy Specific to Section 746.3 (Iraq)

As specified in section 746.3(b)(1), applications for the export or reexport to Iraq, or transfer within Iraq, of items controlled on the Commerce Control List for NS, MT, NP, CW, CB, RS, CC, EI, SI, XP or UN reasons will be subject to a policy of denial if destined for use in Iraqi civil nuclear or military nuclear activity. An exception exists for use of isotopes for medical, industrial or agricultural purposes, which will be reviewed on a case by case basis.

As specified in section 746.3(b)(2), applications for the export or reexport to Iraq, or transfer within Iraq, of machine tools controlled for NS and/or nuclear non-proliferation reasons, as well as any items controlled for CC or UN reasons (including under ECCN 0A986) or under ECCNs that end in the number "018", that would make a material contribution to the production, research, design, development, support, maintenance or manufacture of Iraqi weapons of mass destruction or ballistic missiles or arms and related materiel will also be subject to a general policy of denial.

As specified in section 746.3(b)(3), applications for the export or reexport to Iraq and transfer within Iraq, of items controlled for AT reasons under ECCNs 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992 will be reviewed on a case-by-case basis to determine if they would contribute to

the building of Iraqi civil infrastructure. Applications determined not to contribute to the building of Iraqi civil infrastructure will be subject to a general policy of denial.

Pursuant to section 746.3(b)(4), applications for the export or reexport to Iraq, or transfer within Iraq, of items that will be, or are intended to be, used for a "military end-use" or destined to a "military end-user" will be subject to a policy of denial.

License Exceptions*License Exceptions Available Generally to Group D Countries*

The rule removes Iraq from Country Group E:1, found in Supplement 1 to part 740. Iraq has been added to Country Group D:1 and remains in Country Groups D:2, D:3 and D:4. Although Iraq currently remains on the list of designated terrorist-supporting countries, the anti-terrorism (AT) controls that apply to such countries under section 6(j) of the EAA will not apply to Iraq pursuant to Presidential Determination 2003-23. Countries in Country Group D:1 are of concern for national security reasons. Countries in Country Groups D:2, D:3 and D:4 are of concern for weapons proliferation reasons. As a result of Iraq's inclusion in Country Groups D:1 to D:4, the following License Exceptions may be available: CIV, CTP, TMP, RPL, GOV, GFT, TSU, BAG, AVS, ENC and KMI. A specific transaction is eligible for a License Exception only if it satisfies all of the terms and conditions of the relevant License Exception and is not excluded by any of the restrictions that apply to all License Exceptions, as set forth in the EAR (including, specifically, section 740.2).

Expanded License Exception Availability

The rule adds Iraq to Computer Tier 3 for exports or reexports of high performance computers under License Exception CTP (section 740.7 of the EAR). Countries in Tier 3 are eligible to receive computers up to and including 190,000 MTOPS (millions of theoretical operations per second) under License Exception CTP. Certain transfers within Iraq of computers up to and including 190,000 MTOPS will now require a license.

The export or reexport to Iraq of high performance computers exceeding 190,000 MTOPS continues to require a license. In addition, transfers within Iraq of computers exceeding 190,000 MTOPS will now also require a license.

Special License(s): Special Iraq Reconstruction License (SIRL)

This rule further establishes a new part 747 of the EAR entitled Special Iraq Reconstruction License (SIRL). Part 747 authorizes exports or reexports to Iraq, or transfers within Iraq, of items in furtherance of civil reconstruction and other projects funded by specified entities including the United States Government. Also included are projects funded by the United Nations, the World Bank, and the International Monetary Fund, and their affiliated entities (*i.e.*, International Bank for Reconstruction and Development, International Finance Corporation, and United Nations Development Programme) as well as any other entities the U.S. Government may designate. All items subject to the EAR except items controlled for missile technology (MT), nuclear nonproliferation (NP), or chemical and biological weapons (CB) reasons are eligible for export or reexport under a SIRL.

Applicants may apply for a SIRL by submitting a completed BIS Multipurpose Application form (BIS-748P), Item Appendix (BIS-748P-A), and End-User Appendix (BIS-748P-B), plus narrative statements, as described in section 747.4 of new part 747. BIS will process SIRL applications expeditiously. To approve a SIRL, BIS must be satisfied that the parties to the license will adhere to the conditions of the license and the EAR and that approval of the application will not be detrimental to U.S. national security, nonproliferation, or other foreign policy interests. A license is required to transfer within Iraq any item exported or reexported pursuant to a SIRL to an end-user not identified on the end-user appendix.

Savings Clause

Among other things, the termination of the national emergency declared in Executive Order 12722 ends the export prohibition in that and related Executive Orders and in OFAC's Iraqi Sanctions Regulations, 31 CFR part 575. However, to facilitate a smooth transition of licensing responsibility from OFAC to BIS, this rule extends the validity of licenses issued by OFAC for Iraq. For those specific licenses with specified expiration dates, such dates will continue to apply. Licenses without specified expiration dates will be valid through July 30, 2005.

Items licensed by OFAC and subsequently returned from Iraq to the United States do not require further authorization from BIS. However, persons returning items to the United

States that were previously exported or reexported to Iraq under a specific license granted by OFAC will be subject to a recordkeeping requirement set forth in revised section 746.3(e) of the EAR.

In addition, items exported or reexported to Iraq under a specific license granted by OFAC may not be transferred within Iraq to a new end-user without a license from BIS. Reexports of items previously exported or reexported to Iraq under a specific license granted by OFAC must conform with relevant provisions of the EAR based on the country to which the items are being reexported. In certain circumstances, such reexports may be eligible for a License Exception or may not require a license. Such reexports will also be subject to the recordkeeping requirement set forth in section 746.3(e) of the EAR.

Other Provisions

Consistent with Executive Order 13315 of August 28, 2003 ("Blocking Property of the Former Iraqi Regime, its Senior Officials and Their Family Members, and Taking Certain Other Actions"), this rule amends the EAR to create a new section 744.18 that creates a license requirement for exports, reexports, or transfers, of any item subject to the EAR to persons designated in or pursuant to Executive Order 13315. These persons include individuals and entities listed in the Annex to Executive Order 13315, as well as persons subsequently designated pursuant to criteria set forth in the order.

OFAC includes the names of persons designated pursuant to Executive Order 13315 in Appendix A to 31 CFR Chapter V, which lists persons subject to various sanctions programs administered by OFAC. All persons designated in or pursuant to Executive Order 13315 are identified in Appendix A by the bracketed initials [IRAQ2].

To avoid duplication, U.S. persons are not required to seek separate BIS authorization for an export, reexport, or transfer, to a person identified in section 744.18 of any item subject to both the EAR and regulations maintained by OFAC. You should consult with OFAC concerning transactions subject to OFAC licensing requirements.

U.S. persons must seek authorization from BIS for the export, reexport, or transfer, to a person identified in section 744.18 of any item subject to the EAR but not subject to regulations maintained by OFAC (e.g., deemed exports). Non-U.S. persons must seek authorization from BIS for the export from abroad, reexport, or transfer, to a person identified in section 744.18 of

any item subject to the EAR. Applications for licenses for the export, reexport, or transfer, to a person identified in section 744.18 of any item subject to the EAR will be subject to a general policy of denial.

Although the EAA expired on August 30, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001), as extended by the Notice of August 7, 2003 (68 Fed. Reg. 47833, August 11, 2003), continues the EAR in effect under the International Emergency Economic Powers Act.

This action is taken after consultation with the Secretary of State. BIS submitted a foreign policy report to the Congress indicating the imposition of new foreign policy controls on July 28, 2004.

Rulemaking Requirements

1. This interim rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information approved by the Office of Management and Budget under control numbers 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes for a manual or electronic submission and 0694-0129, "Special Iraq Reconstruction License" which carries a maximum annual burden of 3.5 hours per applicant. The Special Iraq Reconstruction License (SIRL) process authorizes special project-based licenses for exports and reexports in support of Iraq reconstruction. Public comment is sought regarding whether the collection of information requirements are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of technology. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395-7285; and to the Regulatory

Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. 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 military and foreign affairs function of the United States (*See* 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under Title 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form and BIS will consider comments in the development of the final regulations. Accordingly, the Department of Commerce (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 August 30, 2004. 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 persons 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 a matter of public record and will be available for public review and copying. Communications from agencies of

the United States Government and general comments from foreign governments will not be available for public inspection.

The public record concerning this regulation will be maintained in the Bureau of Industry and Security Freedom of Information Records Inspection Facility (see **ADDRESSES** above). 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 the Bureau of Industry and Security Freedom of Information Officer. (See **FOR FURTHER INFORMATION CONTACT** section above.)

List of Subjects

15 CFR Parts 732, 740, 747, 750, and 758

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

15 CFR Parts 738, 742, 772, and 774

Exports, Foreign trade.

15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 762

Administrative practice and procedure, Business and Industry, Confidential business information, Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, parts 732, 738, 740, 742, 744, 746, 747, 750, 758, 762, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 732—[AMENDED]

■ 1. The authority citation for 15 CFR part 732 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

§ 732.1 [Amended]

- 2. Section 732.1 is amended:
 - a. By revising the phrase “Cuba, Iran and Iraq.” in the next to last sentence of paragraph (d)(2) to read “Cuba and Iran.”; and
 - b. By revising the phrase “countries subject to a comprehensive embargo (e.g., Cuba, Iran and Iraq),” in (d)(3) to read “countries subject to a comprehensive embargo (e.g., Cuba and Iran),”.

■ 3. Section 732.3 is amended by revising paragraph (d)(4) to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

* * * * *

(d) * * *

(4) *Destinations subject to embargo provisions.* The Country Chart does not apply to Cuba and Iran; and for those countries you should review the embargo provisions at part 746 of the EAR and may skip this step concerning the Country Chart. For Iraq and Rwanda, the Country Chart provides for certain license requirements, and part 746 of the EAR provides additional requirements.

PART 738—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783;

■ 5. Supplement No. 1 to part 738 is amended by revising the entry for “Iraq” to read as follows:

Supplement No. 1 to Part 738—Commerce Country Chart

COMMERCE COUNTRY CHART
[Reason for control]

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Firearms Convention	Crime control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Iraq ¹	X	X	X	X	X	X	X	X	X	X	X	X			

¹ This country is subject to sanctions implemented by the United Nations Security Council. See part 746 for additional information and licensing requirements that apply to exports and reexports to the countries so marked. See also § 746.3 for license requirements for exports and reexports to Iraq or transfers within Iraq. Although most items controlled only for AT reasons do not require a license to Iraq, some items do require a license. See § 746.8 for license requirements for exports and reexports to Rwanda.

PART 740—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

■ 7. Section 740.2 is amended:

■ a. By revising the phrase “to an embargoed destination (Cuba, Iran and

Iraq)” of paragraph (a)(6) to read “to a comprehensively embargoed destination (Cuba and Iran)”;

■ b. By amending paragraph (a)(8)(ii) by inserting “or (v)” before the semicolon; and

■ c. By adding new paragraph (d) to read as follows:

§ 740.2 Restrictions on all License Exceptions

* * * * *

(d) See § 746.3 for restrictions on certain transfers within Iraq of items

exported or reexported to Iraq pursuant to a License Exception.

* * * * *

■ 8. Section 740.7 is amended:

■ a. By revising the phrase “Cuba, Iran, Iraq, North Korea, Sudan, or Syria,” in paragraph (b)(2) to read “Cuba, Iran, North Korea, Sudan, or Syria,” and

■ b. By revising paragraph (d)(1) to read as follows:

§ 740.7 Computers (CTP).

* * * * *

(d) *Computer Tier 3*—(1) *Eligible countries*. The countries that are eligible to receive exports and reexports under this License Exception are Afghanistan, Albania, Algeria, Andorra, Angola, Armenia, Azerbaijan, Bahrain, Belarus, Bosnia & Herzegovina, Bulgaria, Cambodia, China (People's Republic of), Comoros, Croatia, Djibouti, Egypt, Georgia, India, Iraq, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Latvia, Lebanon, Macau, Macedonia (The Former Yugoslav Republic of), Mauritania, Moldova, Mongolia, Morocco, Oman, Pakistan, Qatar, Russia, Serbia and Montenegro, Saudi Arabia, Tajikistan, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, Uzbekistan, Vanuatu, Vietnam, and Yemen. As of May 2, 2002, Latvia is moved to Computer Tier 1.

■ 9. Section 740.9 is amended by revising paragraph (c)(2) to read as follows:

§ 740.9 Temporary, imports, exports, and reexports (TMP).

- * * * * *
- (c) * * *
- (1) * * *

(2) Eligible countries. Encryption software controlled under ECCN 5D002 is not eligible for export or reexport to a country in Country Group E:1 under the provisions of this paragraph (c). All other beta test software is eligible for export or reexport to all destinations, except Cuba, Iran, and Sudan under the provisions of this paragraph (c).

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§ 740.11 [Amended]

■ 10. Section 740.11 is amended by revising the phrase “Cuba, Iran, Iraq,

Libya, North Korea, Sudan, or Syria,” in paragraph (c)(2)(i) to read “Cuba, Iran, Libya, North Korea, Sudan, or Syria,”.

§ 740.13 [Amended]

- 11. Section 740.13 is amended:
 - a. By revising the phrase “Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria.” in paragraph (e)(4) to read “a country in Country Group E:1.”; and
 - b. By revising the phrase “Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria.” in paragraph (e)(6) to read “a country in Country Group E:1.”.
- 12. Supplement No. 1 to part 740 is amended:
 - a. By revising the entry for Iraq in Country Group D; and
 - b. By revising Country Group E to read as follows:

Supplement No. 1 to PART 740—
Country Groups

- * * * * *

COUNTRY GROUP D

Country	[D:1] National Security	[D:2] Nuclear	[D:3] Chemical & Biological	[D:4] Missile Technology
Iraq	X	X	X	X
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

COUNTRY GROUP E ¹

Country	[E:1] Terrorist supporting countries ²	[E:2] Unilateral embargo
Cuba	X	X
Iran	X	
Korea, North	X	
Libya	X	
Sudan	X	
Syria	X	

¹ In addition to the controls maintained by the Bureau of Industry and Security pursuant to the EAR, note that the Department of the Treasury administers:

- (a) A comprehensive embargo against Cuba, Iran, and Sudan; and
- (b) An embargo against certain persons, e.g., Specially Designated Terrorists (SDT), Foreign Terrorist Organizations (FTO), Specially Designated Global Terrorists (SDGT), and Specially Designated Narcotics Traffickers (SDNT). Please see part 744 of the EAR for controls maintained by the Bureau of Industry and Security on these and other persons.

² The President made inapplicable with respect to Iraq provisions of law that apply to countries that have supported terrorism.

PART 742—[AMENDED]

■ 13. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*;

22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; Sec. 1503, Pub. L. 108–11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

- 14. Section 742.1 is amended:
 - a. By revising the heading “Exports and reexports involving Cuba, Iran, and Iraq” of paragraph (c) to read “Exports and reexports involving Cuba and Iran”;
 - b. By revising the parenthetical phrase “(Cuba, Iran, and Iraq).” in paragraph (c) to read “(Cuba and Iran).”; and
 - c. By revising paragraph (d) to read as follows:

§ 742.1 Introduction.

- * * * * *

(d) *Anti-terrorism Controls on Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria*. Commerce maintains anti-terrorism controls on Cuba, Iran, Iraq, Libya, North Korea, Syria and Sudan under section 6(a) of the Export Administration Act. Items controlled

under section 6(a) to Iran, Syria, Sudan, North Korea and Libya are described in §§ 742.8, 742.9, 742.10, 742.19, and 742.20, respectively, and in Supplement No. 2 to part 742. Items controlled under section 6(a) to Iraq are described in § 746.3(a)(3). Commerce also maintains controls under section 6(j) of the EAA to Cuba, Libya, Iran, North Korea, Sudan and Syria. Items controlled to these countries under EAA section 6(j) are also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to Cuba, Libya, North Korea, Iran, Sudan or Syria. As noted in paragraph (c) of this section, if you are exporting or reexporting to Cuba, Iran, or Iraq you should review part 746 of the EAR, Embargoes and Other Special Controls.

■ 15. Section 742.5 is amended by revising paragraph (a)(2) to read as follows:

§ 742.5 Missile technology.

- (a) * * *
- (1) * * *

(2) The term “missiles” is defined as rocket systems (including ballistic

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

§ 742.12 [Amended]

- 16. Section 742.12 is amended:
 - a. By revising the phrase "Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria." in paragraph (a)(2) to read "Cuba, Iran, Libya, North Korea, Sudan, and Syria."; and
 - b. By removing the phrase "for Iraq see § 746.3;" from paragraph (b)(4)(ii).
- 17. Supplement No. 2 to part 742 is amended by revising paragraph (b)(1) to read as follows:

Supplement No. 2 to Part 742—Anti-Terrorism Controls: Iran, Libya, North Korea, Syria and Sudan Contract Sanctity Dates and Related Policies

* * * * *

(b) * * *

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

Note to paragraph (b)(1): The items described in paragraphs (c)(1) through (c)(5) are not controlled under EAA section 6(j) to military, police, intelligence and other sensitive end-users in Iraq. The 30-day prior Congressional notification requirement also does not apply for the issuance of licenses for such transactions involving Iraq, consistent with Presidential Determination 2003–23, in which the President exercised his authority under the Emergency Wartime Supplemental Appropriations Act, 2003, to make inapplicable with respect to Iraq provisions of law that apply to countries that have supported terrorism. As described in § 746.3(a)(3), items to all end-users in Iraq classified under ECCNs 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992 continue to be controlled under EAA section 6(a). Other licensing requirements continue to apply.

* * * * *

PART 744—[AMENDED]

- 18. The authority citation for 15 CFR part 744 continues 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; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

- 19. Part 744 is amended by adding a new section 744.18 to read as follows:

§ 744.18 Restrictions on exports, reexports, and transfers to persons designated in or pursuant to Executive Order 13315.

Consistent with Executive Order (E.O.) 13315 of August 28, 2003 ("Blocking Property of the Former Iraqi Regime, Its Senior Officials and Their Family Members, and Taking Certain Other Actions"), BIS maintains restrictions on exports, reexports, and transfers to persons designated in or pursuant to E.O. 13315. These persons include individuals and entities listed in the Annex to Executive Order 13315, as well as persons subsequently designated pursuant to criteria set forth in the order. OFAC includes the names of persons designated pursuant to E.O. 13315 in Appendix A to 31 CFR Chapter V, which lists persons subject to various sanctions programs administered by OFAC. All persons designated in or pursuant to E.O. 13315 are identified in Appendix A by the bracketed initials [IRAQ2].

(a) License Requirements.

(1) A license requirement applies to the export, reexport, or transfer of any item subject to the EAR to—

- (i) Persons listed in the Annex to E.O. 13315 of August 28, 2003; or
- (ii) Persons determined to be subject to E.O. 13315.

(2) To avoid duplication, U.S. persons are not required to seek separate BIS authorization for an export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to both the EAR and regulations maintained by OFAC. Therefore, if OFAC authorizes an export from the United States or an export, reexport, or transfer by a U.S. person to a person identified in paragraph (a) of this section, no separate authorization from BIS is necessary.

(3) U.S. persons must seek authorization from BIS for the export, reexport, or transfer to a person

identified in paragraph (a) of this section of any item subject to the EAR but not subject to regulations maintained by OFAC.

(4) Non-U.S. persons must seek authorization from BIS for the export from abroad, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR.

(5) Any export, reexport, or transfer to a person identified in paragraph (a) of this section by a U.S. person of any item subject both to the EAR and regulations maintained by OFAC and not authorized by OFAC is a violation of the EAR.

(6) Any export, reexport, or transfer by a U.S. person to a person identified in paragraph (a) of this section of any item subject to the EAR that is not subject to regulations maintained by OFAC and not authorized by BIS is a violation of the EAR. Any export from abroad, reexport, or transfer by a non-U.S. person to a person identified in paragraph (a) of this section of any item subject to the EAR and not authorized by BIS is a violation of the EAR.

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

(b) *Exceptions.* No License Exceptions or other BIS authorizations are available for export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR.

(c) *Licensing policy.* Applications for licenses for the export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR will generally 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.

PART 746—[AMENDED]

- 20. The authority citation for 15 CFR part 746 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. 287c; Sec. 1503, Pub. L. 108–11,117 Stat. 559; 22 U.S.C. 6004; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

- 21. Section 746.1 is amended:
 - a. By revising the phrase "Cuba, Iran and Iraq" in paragraph (a) to read "Cuba and Iran";
 - b. By revising paragraphs (a)(2) and (b) to read as follows:

§ 746.1 Introduction.

* * * * *

(a) * * *

(1) * * *

(2) *Iran.* BIS maintains license requirements and other restrictions on exports and reexports to Iran. A comprehensive embargo on transactions involving this country is administered by the Department of The Treasury's Office of Foreign Assets Control (OFAC).

(b) *Sanctions on selected categories of items to specific destinations.*

BIS controls the export and reexport of selected categories of items to Iraq and Rwanda consistent with United Nations Security Council Resolutions.

* * * * *

■ 22. Section 746.3 is revised to read as follows:

§ 746.3 Iraq.

Pursuant to United Nations Security Council (UNSC) Resolutions 1483 and 1546 and other relevant resolutions, the United Nations maintains an embargo on the sale or supply to Iraq of arms and related materiel and their means of production, except items required by the Interim Government of Iraq or the Multinational Force in Iraq to serve the purposes of Resolution 1546. UNSC Resolutions 707 and 687 require that Iraq eliminate its nuclear weapons program and restrict its nuclear activities to the use of isotopes for medical, industrial or agricultural purposes. Such resolutions further mandate that Iraq eliminate its chemical and biological weapons programs as well as its ballistic missile program. In support of the applicable UNSC resolutions, certain Iraq specific license requirements and licensing policies are detailed in this section. In addition, this section details restrictions on transfers of items subject to the EAR within Iraq. Exporters should be aware that other provisions of the EAR, including parts 742 and 744, will continue to apply with respect to exports and reexports to Iraq and transfers within Iraq.

(a) *License requirements.* (1) A license is required for the export or reexport to Iraq or transfer within Iraq of any item controlled on the Commerce Control List for NS, MT, NP, CW, CB, RS, CC, EL, SI, or XP reasons. See part 742 of the EAR.

(2) A license is required for the export or reexport to Iraq or transfer within Iraq of any item controlled on the Commerce Control List for UN reasons.

(3) A license is required for the export or reexport to Iraq or transfer within Iraq of items on the Commerce Control List controlled for AT reasons under the

following ECCNs: 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992.

(4) A license is required for the export or reexport to Iraq or transfer within Iraq of any item subject to the EAR if, at the time of the export, reexport or transfer, you know, have reason to know, or are informed by BIS that the item will be, or is intended to be, used for a "military end-use" or by a "military end-user", as defined in this section. This license requirement does not apply to exports, reexports or transfers of items for the official use by personnel and agencies of the U.S. Government or exports, reexports or transfers to the Interim Government of Iraq or the Multinational Force in Iraq. See § 740.11(b)(3) of the EAR for the definition of "agency of the U.S. Government." BIS may inform an exporter, reexporter, or other person, either individually by specific notice or through amendment to the EAR, that a license is required for export, reexport or transfer of items subject to the EAR to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the uses or users described in this paragraph. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. The absence of any such notification does not excuse the exporter, reexporter or other person from compliance with the license requirements of this paragraph.

(i) *Military end-use.* In this section, the phrase "military end-use" means incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations) or the Wassenaar Arrangement Munitions List (WAML) (as set out on the Wassenaar Arrangement website at <http://www.wassenaar.org>); or use, development, or deployment of military items described on the USML or the WAML.

(ii) *Military end-user.* In this section, the term "military end-user" means any "person" whose actions or functions are intended to support "military end-uses" as defined in paragraph (a)(4)(i) of this section and who is not recognized as a legitimate military organization by the U.S. Government.

(5) *Definitions.* For purposes of exports or reexports to Iraq or transfers within Iraq, "ballistic missile" is defined as any missile capable of a range greater than 150 kilometers.

(b) *Licensing policy.* (1) License applications for the export or reexport to Iraq or transfer within Iraq of items listed in paragraph (a)(1), (a)(2), or (a)(3) of this section for Iraqi civil nuclear or military nuclear activity, except for use of isotopes for medical, industrial or agricultural purposes, will be subject to a policy of denial.

(2) License applications for the export or reexport to Iraq or transfer within Iraq of machine tools controlled for national security (NS) or nuclear non-proliferation (NP) reasons, as well as for any items controlled for crime control (CC) or united nations (UN) reasons (including items controlled under ECCN 0A986) or ECCNs that end in the number "018", that would make a material contribution to the production, research, design, development, support, maintenance or manufacture of Iraqi weapons of mass destruction, ballistic missiles or arms and related materiel will be subject to a general policy of denial.

(3) License applications for the export or reexport to Iraq or transfer within Iraq of items listed in paragraph (a)(3) of this section will be reviewed on a case-by-case basis to determine if they would contribute to the building of Iraqi civil infrastructure. Applications determined not to contribute to the building of Iraqi civil infrastructure will be subject to a general policy of denial.

(4) License applications for the export or reexport to Iraq or transfer within Iraq of items listed in paragraph (a)(4) of this section will be subject to a policy of denial.

(c) *License exceptions.* You may export or reexport without a license if your transaction meets all the requirements of any of the following License Exceptions: CIV, CTP, TMP, RPL, GOV, GFT, TSU, BAG, AVS, ENC or KMI. For specific requirements of each of these License Exceptions, refer to part 740 of the EAR.

(d) *Related State Department controls.* The Department of State, Directorate of Defense Trade Controls, maintains controls on arms and military equipment to Iraq under the International Traffic in Arms Regulations (22 CFR parts 120 through 130).

(e) *Transition for licenses issued by the Department of the Treasury's Office of Foreign Assets Control.* Prior to July 30, 2004, the Department of the Treasury's Office of Foreign Assets Control (OFAC) exercised primary licensing jurisdiction for transactions with Iraq, as provided in 31 CFR part 575. This section establishes a validity period for licenses issued by OFAC for exports or reexports to Iraq.

(1) *Validity period.* Licenses issued by OFAC for the export or reexport of items that require a license to Iraq under the Export Administration Regulations (EAR) shall continue to be valid under the EAR. For those licenses with specified expiration dates, such dates will continue to apply. Licenses without specified expiration dates will be valid through July 30, 2005. The recordkeeping requirements applicable to exports and reexports of items pursuant to licenses issued by OFAC are described in paragraph (e)(3) of this section.

Note to paragraph (e)(1). Persons that have been authorized by OFAC to export or reexport items that are subject to the export control jurisdiction of other agencies must consult with OFAC and the other relevant agencies with regard to the expiration date of the authorization granted by OFAC.

(2) *Reexports or transfers.* Items subject to a license requirement under the EAR for export or reexport to Iraq as of July 30, 2004, that were previously exported or reexported to Iraq under a specific license granted by OFAC:

(i) May not be transferred within Iraq to a new end-user without a license from BIS,

(ii) May be reexported to the United States without a license,

(iii) May be reexported to third countries subject to the license requirements for the destination, end-user or end-user set forth elsewhere in the EAR.

(3) *Recordkeeping requirement.* Persons in receipt of a specific license granted by OFAC described in paragraph (e)(1) of this section must maintain a record of those items exported or reexported to Iraq pursuant to such specific license and record when the items are consumed or destroyed in the normal course of their use in Iraq, reexported to a third country not requiring further authorization from BIS, or returned to the United States. This requirement applies only to items subject to a license requirement under the EAR for export to Iraq as of July 30, 2004. These records must be maintained in accordance with recordkeeping requirements set forth in part 762 of the EAR and must include the following information:

(i) Date of export or reexport and related details (including means of transport);

(ii) Description of items (including ECCN) and value of items in U.S. Dollars;

(iii) Description of proposed end-use and locations in Iraq where items are intended to be used;

(iv) Parties other than specific OFAC licensee who may be given temporary access to the items; and

(v) Date of consumption or destruction, if the items are consumed or destroyed in the normal course of their use in Iraq, or the date of reexport to a third country not requiring further authorization from BIS, or return to the United States.

(f) *License Requirements for certain transfers within Iraq of items subject to the EAR.* (1) *Licensed items.* A license is required for the transfer within Iraq of any item subject to the EAR exported or reexported pursuant to a specific license issued by the Department of the Treasury or a Department of Commerce specific license or License Exception.

(2) *Other items.* (i) A license is required for the transfer within Iraq of any item subject to the EAR, if, at the time of the transfer, you know, have reason to know, or are informed by BIS that the item will be used in the design, development, production or use of weapons of mass destruction or the means of their delivery, as set forth in part 744 of the EAR.

(ii) A license is required for the transfer within Iraq to designated terrorists or terrorist organizations, as set forth in §§ 744.12, 744.13, or 744.14 of the EAR.

PART 747—[NEW]

■ 23. New part 747 is added to read as follows:

PART 747—SPECIAL IRAQ RECONSTRUCTION LICENSE

Sec.

747.1 Scope.

747.2 Eligibility requirements.

747.3 Eligible items.

747.4 Steps you must follow to apply for a SIRL.

747.5 SIRL application review process.

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 1503, Pub.L. 108–11,117 Stat. 559; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

§ 747.1 Scope.

A Special Iraq Reconstruction License (SIRL) authorizes exports and reexports to Iraq and transfers within Iraq of items in furtherance of civil reconstruction and other related projects.

§ 747.2 Eligibility requirements.

(a) A SIRL authorizes exports and reexports to Iraq and transfers within Iraq of items in furtherance of civil

reconstruction and other projects funded by:

- (1) The United States Government;
- (2) The United Nations, the World Bank, and the International Monetary Fund, their affiliated entities (*i.e.*, International Bank for Reconstruction and Development, International Finance Corporation, and United Nations Development Programme); and
- (3) Any other entities that the U.S. Government may designate.

(b) To be eligible for a SIRL, exports, reexports or transfers must be made pursuant to and within the scope of contractual or similar arrangements in furtherance of civil reconstruction or other projects in Iraq funded by any of the entities described above.

§ 747.3 Eligible items.

All items subject to the EAR, other than items controlled for missile technology (MT), nuclear nonproliferation (NP) or chemical and biological weapons (CB) reasons, are eligible for export, reexport or transfer under a SIRL.

§ 747.4 Steps you must follow to apply for a SIRL.

(a) *Step One: Prepare your documentation.*

(1) Form BIS–748P, Multipurpose Application, and Form BIS–748P–A, Item Appendix. You must complete the Multipurpose Application Form (BIS–748P) to apply for a SIRL. Applications must specifically describe, on Form BIS–748P–A, Item Appendix, all items subject to the EAR to be exported or reexported to Iraq, or transferred within Iraq, for which BIS approval is sought. Export control classification numbers (ECCNs) must be identified for all such items. Applicants should provide BIS commodity classifications, where available, as this will assist BIS to rule upon the application quickly.

(2) Form BIS–748P–B, End-User Appendix. All end-users must be identified on Form BIS–748P–B, End-User Appendix.

(b) *Step Two: Narrative statement to support application.*—In support of an application for a SIRL, exporters must submit with the application a narrative statement that includes the following information:

(1) Identity of all parties to the proposed transaction;

(2) Detailed description of the project, funding entity, the contract or work order which formed the basis of the transaction, and any identification number or project code for that contract or work order;

(3) Explanation of how the project will contribute to the reconstruction of

Iraq and any potential security issues associated with the items to be exported, reexported or transferred;

(4) Written statement from one or more funding agencies referred to in § 747.2 addressing whether the transaction is likely to pose security issues;

(5) Certification that items will not be used in any of the prohibited proliferation activities described in part 744 of the EAR;

(6) For items that will remain in the control of the exporter, a commitment to return all items to the United States when the authorized project or activity is complete, excluding those items that are consumed in Iraq, absent specific permission from BIS; and

(7) Certification that parties to the transaction will obtain a license from BIS prior to transferring within Iraq or reexporting items to end-users not authorized under the SIRL, unless they would not require a BIS license to the new country of destination. (Please see the guidance in § 747.5(d) regarding the transfer of items to persons within Iraq not included on the End-User Appendix.)

§ 747.5 SIRL application review process.

(a) *Application processing time frames.* Upon receiving a complete application with all requisite supporting documentation, BIS may review the application for up to ten days before referring the application to the other appropriate agencies. Agencies have 30 days from the date of referral to process the application. The U.S. Government will review the application as expeditiously as possible.

(b) *Review policy.* (1) BIS will review SIRL applications on a case-by-case basis. To approve a SIRL, BIS must be satisfied that the parties to the license will adhere to the conditions of the license and the EAR, and that approval of the application will not be detrimental to U.S. national security, nonproliferation, or foreign policy interests. In reviewing and approving a specific SIRL application, BIS may retain the right to limit the items that are eligible or to prohibit the export, reexport, or transfer of items under the reconstruction license to specific firms or individuals.

(2) BIS will thoroughly analyze all parties, items and activities associated with the applicant's proposed transaction(s). If BIS cannot verify that all parties, items and activities are appropriate, or establish the reliability of the proposed parties to the application, it may deny the application, or modify it by eliminating

certain consignees, items, activities or other elements.

(3) The licensing decision will focus on the following factors:

(i) The proposed end-use(s);
 (ii) If the proposed transaction will contribute to the reconstruction of Iraq;
 (iii) If the proposed transaction could contribute to the design, development, production, stockpiling, or use of nuclear or chemical or biological weapons, or missiles of greater than 150 kilometer range and the types of assurances available against these activities;

(iv) The potential impact of the proposed transaction on the security situation in Iraq; and
 (v) The reliability of all parties to the proposed transaction.

(4) If the U.S. Government determines that the proposed transaction does not satisfy all the criteria of part 747, BIS will inform the applicant that the agency will review the application under standard license procedures for individual items rather than as a SIRL. The applicant may elect to have the application Returned Without Action. Applicants are not required to use the SIRL procedure and may seek authorization under standard license procedures.

(c) *Validity period.* SIRLs will be valid until the completion or discontinuation of the associated project detailed in the application or until otherwise determined by BIS. Applicants are required to submit a report to BIS verifying completion of the project or indicating that the project has been discontinued. These reports should be submitted to the following address: U.S. Department of Commerce, Office of Exporter Services, ATTN: Reports, 14th Pennsylvania Ave., NW., Washington, DC, 20230. The report should include the following information:

(1) The SIRL reference number;
 (2) The date the project is completed or discontinued;

(3) Verification that items exported under the authority of the SIRL were, as applicable, consumed during use, returned to the United States, reexported to a third country, or transferred to a party within Iraq for whom the applicant has received a license from BIS; and

(4) The reference numbers of the licenses received for the reexport or transfer within Iraq, if required.

(d) *Post-shipment information.* For any items exported or reexported pursuant to a SIRL that are not consumed in Iraq, the applicant must either:

(1) Return the items to the United States,

(2) Reexport the items to a third country, and obtain prior BIS approval where required; or

(3) Seek a license from BIS prior to transferring the items within Iraq to an end-user not identified on the End-User Appendix.

(e) *Changes to a SIRL.* Changes to a SIRL require BIS prior approval if they involve:

(1) Change to consignee name or address;
 (2) Addition of new consignee;
 (3) Addition of new item;
 (4) Changes to end user information or additional end users added; and/or
 (5) Change to license holder

ownership or control. Applicants must submit a written request for a change to the Office of Exporter Services. BIS will respond to these requests in written form. Changes involving the following must be reported to BIS within 30 days of their occurrence but do not require prior BIS approval:

(i) License holder address, contact information, or license value; or
 (ii) Removing consignee(s), items or end users from the SIRL.

(f) *Administrative actions.* If BIS believes any party to a SIRL is not complying with all conditions of the SIRL, BIS may take measures including revoking or suspending parts of the SIRL, or may restrict what items may be shipped under the SIRL. Whenever necessary to protect the national interest of the United States, BIS may take any licensing action it deems appropriate, without regard to contracts or agreements entered into before such administrative action.

PART 750—[AMENDED]

■ 24. The authority citation for 15 CFR part 750 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

■ 25. Section 750.4 is amended by revising paragraph (b)(6)(i) to read as follows:

§ 750.4 Procedures for processing license applications.

* * * * *

(b) * * *

(6) * * *

(i) *Designated countries.* The following countries have been designated by the Secretary of State as terrorist-supporting countries: Cuba,

Iran, Iraq, Libya, North Korea, Sudan, and Syria. However, the congressional notification requirement does not apply to Iraq in view of Presidential Determination 2003-23, in which the President exercised his authority under the Emergency Wartime Supplemental Appropriations Act, 2003, to make inapplicable with respect to Iraq section 620A of the Foreign Assistance Act and any other provision of law that applies to countries that have supported terrorism.

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PART 758—[AMENDED]

■ 26. The authority citation for 15 CFR part 758 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

■ 27. Section 758.1 is amended by revising the phrase “Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria,” of paragraph (b)(1) to read “A country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR”.

PART 762—[AMENDED]

■ 28. The authority citation for part 762 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

■ 29. Section 762.2 is amended by redesignating paragraphs (b)(10) through (b)(43) as (b)(12) through (b)(45); and inserting new paragraphs (b)(10) and (b)(11) to read as follows:

§ 762.2 Records to be retained.

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(b) * * *

(10) § 746.3 Iraq.

(11) Part 747, Special Iraq Reconstruction License.

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PART 772—[AMENDED]

■ 30. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

■ 31. Section 772.1 is amended by revising the definition of “Missiles” to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

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“Missiles”. (All)—Rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) “capable of” delivering at least 500 kilograms payload to a range of at least 300 kilometers. See § 746.3 for definition of a “ballistic missile” to be exported or reexported to Iraq or transferred within Iraq.

PART 774—[AMENDED]

■ 32. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

■ 33. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A018 is amended by revising the License Requirements section to read as follows:

0A018 Items on the Wassenaar Munitions List

License Requirements

Reason for Control: NS, AT, UN.

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 34. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A918 is amended by revising the License Requirements section to read as follows:

0A918 Miscellaneous Military Equipment not on the Wassenaar Munitions List

License Requirements

Reason for Control: RS, AT, UN.

Control(s)	Country chart
RS applies to entire entry.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 35. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A984 is amended by revising the License Requirements section to read as follows:

0A984 Shotguns, barrel length 18 inches (45.72 cm) inches or over; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, FC, UN.

Control(s)	Country chart
FC applies to entire entry.	FC Column 1.
CC applies to shotguns with a barrel length greater than or equal to 18 in.(45.72 cm), but less than 24 in.(60.96 cm) or buckshot shotgun shells controlled by this entry, regardless of end-user.	CC Column 1.
CC applies to shotguns with a barrel length greater than or equal to 24 in.(60.96 cm), regardless of end-user.	CC Column 2.
CC applies to shotguns with a barrel length greater than or equal to 24 in.(60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.
UN applies to entire entry.	Iraq and Rwanda.

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■ 36. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A985 is amended by revising the License Requirements section to read as follows:

0A985 Discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN.

Control(s): CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

UN applies to entire entry.	Iraq and Rwanda entry.
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■ 37. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A986 is amended by revising the License Requirements section to read as follows:

0A986 Shotgun shells, except buckshot shotgun shells, and parts

License Requirements

Reason for Control: AT, FC, UN.

Control(s)—Country Chart: AT applies to entire entry. A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information.

FC applies to entire entry.	FC Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 38. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A987 is amended by revising the License Requirements section to read as follows:

0A987 Optical sighting devices for firearms (including shotguns controlled by 0A984); and parts, n.e.s.

License Requirements

Reason for Control: FC, CC, UN.

Control(s)	Country chart
FC applies to optical sights for firearms, including shotguns described in ECCN 0A984, and related parts.	FC Column 1.
CC applies to entire entry.	CC Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 39. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0A988 is amended by revising the License Requirements section to read as follows:

0A988 Conventional military steel helmets as described by 0A018.d.1.; and machetes

License Requirements

Reason for Control: UN.

Control(s): UN applies to entire entry. A license is required for conventional military steel helmets as described by 0A018.d.1 to Iraq and Rwanda. A license is required for machetes to Iraq and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transshipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 746.7 of the EAR for additional information on this requirement.)

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■ 40. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0B986 is amended by revising the License Requirements section to read as follows:

0B986 Equipment specially designed for manufacturing shotgun shells; and ammunition hand-loading equipment for both cartridges and shotgun shells

License Requirements

Reason for Control: AT, UN.

Control(s): AT applies to entire entry. A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information.

UN applies to entire entry. A license is required for items controlled by this entry to Iraq and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

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■ 41. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0B999 is amended by revising the License Requirements section to read as follows:

0B999 Specific processing equipment, as follows (see List of Items Controlled)

License Requirements

Reason for Control: AT.

Control(s)—Country Chart: AT applies to entire entry. A license is required for items controlled by this entry to Iraq and North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 and § 746.3 of the EAR for additional information.

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■ 42. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0D999 is amended by revising the License Requirements section to read as follows:

0D999 Specific software, as follows (see List of Items Controlled)

License Requirements

Reason for Control: AT.

Control(s)—Country Chart: AT applies to entire entry. A license is required for items controlled by this entry to Iraq and North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 and § 746.3 of the EAR for additional information.

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■ 43. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0E018 is amended by revising the License Requirements section to read as follows:

0E018 “Technology” for the “development”, “production”, or “use” of items controlled by 0A018.a through 0A018.c

License Requirements

Reason for Control: NS, UN, AT.

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
UN applies to entire entry.	Iraq and Rwanda.
AT applies to entire entry.	AT Column 1.

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■ 44. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0E918 is amended by revising the License Requirements section to read as follows:

0E918 “Technology” for the “development”, “production”, or “use” of bayonets

License Requirements

Reason for Control: RS, UN, AT.

Control(s)	Country chart
RS applies to entire entry.	RS Column 2.
UN applies to entire entry.	Iraq and Rwanda.
AT applies to entire entry.	AT Column 1.

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■ 45. In Supplement No. 1 part 774 (the Commerce Control List), Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items], Export Control Classification Number (ECCN) 0E984 is amended by revising the License Requirements section to read as follows:

0E984 Technology” for the “development” or “production” of shotguns controlled by 0A984 and buckshot shotgun shells

License Requirements

Reason for Control: CC, UN.

Control(s)	Country chart
CC applies to “technology” for shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) and shotgun shells, regardless of end-user.	CC Column 1.
CC applies to “technology” for shotguns with a barrel length over 24 in. (60.96 cm), regardless of end-user.	CC Column 2.
CC applies to “technology” for shotguns with a barrel length over 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.
UN applies to entire entry.	Iraq and Rwanda.

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■ 46. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1A005 is amended by revising the License Requirements section to read as follows:

1A005 Body armor, and specially designed components therefor, not manufactured to military standards or specifications, nor to their equivalents in performance

License Requirements

Reason for Control: NS, UN, AT

Control(s)	Country chart
NS applies to entire entry.	NS Column 2.
UN applies to entire entry.	Iraq and Rwanda.
AT applies to entire entry.	AT Column 1.

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■ 47. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1B018 is amended by revising the License Requirements section to read as follows:

1B018 Equipment on the International Munitions List

License Requirements

Reason for Control: NS, MT, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to equipment for the “production” of rocket propellants.	MT Column 1.
RS applies to 1B018.a.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

■ 48. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1B999 is amended by revising the License Requirements section to read as follows:

1B999 Specific processing equipment, n.e.s., as follows (see List of Items Controlled)

License Requirements

Reason for Control: AT.

Control(s)—Country Chart AT applies to entire entry. A license is required for items controlled by this entry to Iraq and North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 and § 746.3 of the EAR for additional information.

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■ 49. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1C018 is amended by revising the License Requirements section to read as follows:

1C018 Commercial charges and devices containing energetic materials on the International Munitions List and certain chemicals as follows (see List of Items Controlled)

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry except as noted in 1C018.m.	NS Column 1.
MT applies to 1C018.m except as noted therein.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 50. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1C350 is amended by revising the License Requirements section to read as follows:

1C350 Chemicals that may be used as precursors for toxic chemical agents

License Requirements:

Reason for Control: CB, CW, AT.

Control(s)	Country chart
CB applies to entire entry.	CB Column 2.

CW applies to 1C350.b and .c. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required, for CW reasons, to export or reexport Schedule 2 chemicals and mixtures identified in 1C350.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR). A license is required, for CW reasons, to export Schedule 3 chemicals and mixtures identified in 1C350.c to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country has been obtained by the exporter prior to export. A license is required, for CW reasons, to reexport Schedule 3 chemicals and mixtures identified in 1C350.c from a State not Party to the CWC to any other State not Party to the CWC. (See § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons. See § 745.2 of the EAR for End-Use Certificate requirements that apply to exports of Schedule 3 chemicals to countries not listed in Supplement No. 2 to part 745 of the EAR.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, Libya, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba and Iran. See Supplement No. 1 to part 736 of the EAR for export controls on Syria.)

License Requirement Notes:

1. **SAMPLE SHIPMENTS:** Subject to the following requirements and restrictions, a license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of a single chemical to any one consignee during a calendar year. A consignee that receives a sample shipment under this exclusion may not resell, transfer, or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons.

a. *Chemicals Not Eligible:*

A. [RESERVED]

B. *CWC Schedule 2 chemicals (States not Party to the CWC).* No CWC Schedule 2 chemical or mixture identified in 1C350.b is eligible for sample shipment to *States not Party to the CWC (i.e., destinations not listed in Supplement No. 2 to part 745 of the EAR)* without a license.

b. *Countries Not Eligible:* Countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR are *not* eligible to receive sample shipments of any chemicals controlled by this ECCN without a license.

c. *Sample shipments that require an End-Use Certificate for CW reasons:* No CWC Schedule 3 chemical or mixture identified in 1C350.c is eligible for sample shipment to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) without a license, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export (see § 745.2 of the EAR for End-Use Certificate requirements).

d. *Sample shipments that require a license for reasons set forth elsewhere in the EAR:* Sample shipments, as described in this Note 1, may require a license for reasons set forth elsewhere in the EAR. See, in particular, the end-use/end-user restrictions in part 744 of the EAR, and the restrictions that apply to embargoed countries in part 746 of the EAR.

e. *Quarterly report requirement.* The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled “Report of Sample Shipments of Chemical Precursors” at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee’s name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau

of Industry and Security, P.O. Box 273, Washington, DC 20044, Attn: “Report of Sample Shipments of Chemical Precursors”.

2. **MIXTURES:**

a. Mixtures that contain precursor chemicals identified in ECCN 1C350, in concentrations that are below the levels indicated in 1C350.a through .d, are controlled by ECCN 1C395 or 1C995 and are subject to the licensing requirements specified in those ECCNs.

b. A license is not required for mixtures controlled under this ECCN when the controlled chemical in the mixture is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

a. **Exclusion.** No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. **Percent Weight Calculation.** When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents.

3. **COMPOUNDS.** Compounds created with any chemicals identified in this ECCN 1C350 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

4. **TESTING KITS:** Certain medical, analytical, diagnostic, and food testing kits containing small quantities of chemicals identified in this ECCN 1C350 are excluded from the scope of this ECCN and are controlled under ECCN 1C395 or 1C995. (Note that replacement reagents for such kits are controlled by this ECCN 1C350 if the reagents contain one or more of the precursor chemicals identified in 1C350 in concentrations equal to or greater than the control levels for mixtures indicated in 1C350.)

Technical Notes: 1. For purposes of this entry, a “mixture” is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (see 1C350.d.7 in the List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

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■ 51. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export

Control Classification Number (ECCN) 1C355 is amended by revising the License Requirements section to read as follows:

1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and families of chemicals not controlled by ECCN 1C350 or by the Department of State under the ITAR

License Requirements

Reason for Control: CW, AT.

Control(s) CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required to export or reexport CWC Schedule 2 chemicals and mixtures identified in 1C355.a to States not Party to the CWC (*i.e.*, destinations *not* listed in Supplement No. 2 to part 745 of the EAR). A license is required to export CWC Schedule 3 chemicals and mixtures identified in 1C355.b to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter, prior to export. A license is required to reexport CWC Schedule 3 chemicals and mixtures identified in 1C355.b from a State not Party to the CWC to any other State not Party to the CWC. (*See* § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C355. A license is required, for AT reasons, to export or reexport items controlled by 1C355 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (*See* part 742 of the EAR for additional information on the AT controls that apply to Iran, Libya, North Korea, Sudan, and Syria. *See* part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba and Iran. *See* Supplement No. 1 to part 736 of the EAR for export controls on Syria.)

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■ 52. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1C395 is amended by revising the License Requirements section to read as follows:

1C395 Mixtures and medical, analytical, diagnostic, and food testing kits not controlled by ECCN 1C350, as follows (See List of Items Controlled)

License Requirements

Reason for Control: CB, CW, AT

Control(s): CB applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CB reasons in 1C395. A license is required, for CB reasons, to export or reexport mixtures controlled by 1C395.a and test kits controlled by 1C395.b to States not Party to the CWC (*i.e.*, destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required for CW reasons, as follows, to States not Party to the CWC (*i.e.*, destinations *not* listed in Supplement No. 2 to part 745 of the EAR): (1) exports and reexports of mixtures controlled by 1C395.a, (2) exports and reexports of test kits controlled by 1C395.b that contain CWC Schedule 2 chemicals controlled by ECCN 1C350, (3) exports of test kits controlled by 1C395.b that contain CWC Schedule 3 chemicals controlled by ECCN 1C350, except that a license is not required, for CW reasons, to export test kits containing CWC Schedule 3 chemicals if an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export, and (4) reexports from States not Party to the CWC of test kits controlled by 1C395.b that contain CWC Schedule 3 chemicals. (*See* § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C395. A license is required, for AT reasons, to export or reexport items controlled by 1C395 a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (*See* part 742 of the EAR for additional information on the AT controls that apply to Iran, Libya, North Korea, Sudan, and Syria. *See* part 746 of the EAR for additional information on the comprehensive trade sanctions that apply to Cuba and Iran. *See* Supplement No. 1 to part 736 of the EAR for export controls on Syria.)

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■ 53. In Supplement No. 1 to part 774 (the Commerce Control List), Category

1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1C992 is amended by revising the License Requirements section to read as follows:

1C992 Commercial charges and devices containing energetic materials, n.e.s. and nitrogen trifluoride in a gaseous state

License Requirements

Reason for Control: AT

AT applies to entire entry	AT Column 1 and Iraq
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■ 54. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1C995 is amended by revising the License Requirements section to read as follows:

1C995 Mixtures not controlled by ECCN 1C350, ECCN 1C355 or ECCN 1C395 that contain chemicals controlled by ECCN 1C350 or ECCN 1C355 and medical, analytical, diagnostic, and food testing kits not controlled by ECCN 1C350 or ECCN 1C395 that contain chemicals controlled by ECCN 1C350.d, as follows (see List of Items Controlled)

License Requirements

Reason for Control: AT Column 1 and Iraq.

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■ 55. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals, “Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1C999 is amended by revising the License Requirements section to read as follows:

1C999 Specific materials, n.e.s., as follows (see List of Items Controlled)

License Requirements

Reason for Control: AT

Control(s)—Country Chart: AT applies to entire entry. A license is required for items controlled by this entry to Iraq and North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. *See* § 742.19 and § 746.3 of the EAR for additional information.

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■ 56. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1—Materials, Chemicals,

“Microorganisms,” and Toxins, Export Control Classification Number (ECCN) 1D018 is amended by revising the License Requirements section to read as follows:

1D018 “Software” specially designed or modified for the “development”, “production”, or “use” of items controlled by 1B018

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to “software” for the “development”, “production”, or “use” of items controlled by 1B018 for MT reasons.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 57. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2B018 is amended by revising the License Requirements section to read as follows:

2B018 Equipment on the International Munitions List

License Requirements

Reason for Control: NS, MT, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) usable in systems that are controlled for MT reasons including their propulsion systems and components, and pyrolytic deposition and densification equipment.	MT Column 1.
RS applies to entire entry.	RS Column 2.
AT applies to entire entry.	AT Column 1.

Control(s)	Country chart
UN applies to entire entry.	Iraq and Rwanda.

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■ 58. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2D018 is amended by revising the License Requirements section to read as follows:

2D018 “Software” for the “development”, “production” or “use” of equipment controlled by 2B018

License Requirements

Reason for Control: NS, MT, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to “software” for equipment controlled by 2B018 for MT reasons.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 59. In Supplement No. 1 to part 774 (the Commerce Control List), Category 2—Materials Processing, Export Control Classification Number (ECCN) 2E018 is amended by revising the License Requirements section to read as follows:

2E018 “Technology” for the “use” of equipment controlled by 2B018

License Requirements

Reason for Control: NS, MT, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
MT applies to “technology” for equipment controlled by 2B018 for MT reasons.	MT Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 60. In Supplement No. 1 to part 774 (the Commerce Control List), Category 4—Computers, the following Export Control Classification Number (ECCN) 4A003 is amended by revising the License Requirements section, to read as follows:

4A003 “Digital computers”, “electronic assemblies”, and related equipment therefor, as follows, and specially designed components therefor

License Requirements

Reason for Control: NS, MT, CC, AT, NP, XP

Control(s)	Country chart
NS applies to 4A003.b and .c.	NS Column 1.
NS applies to 4A003.a, .e, and .g.	NS Column 2.
MT applies to digital computers used as ancillary equipment for test facilities and equipment that are controlled by 9B005 or 9B006.	MT Column 1.
CC applies to “digital computers” for computerized finger-print equipment.	CC Column 1.
AT applies to entire entry (refer to 4A994 for controls on “digital computers” with a CTP ≥6 but ≤ to 190,000 MTOPS).	AT Column 1.

NP applies, unless a License Exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.

XP applies to “digital computers” with a CTP greater than 190,000 MTOPS, unless a License Exception is available. XP controls vary according to destination and end-user and end-use; however, XP does not apply to Canada. See § 742.12 of the EAR for additional information.

Note: For all destinations, except those countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR, no license is required (NLR) for computers with a CTP not greater than 190,000 MTOPS and for “electronic assemblies” described in 4A003.c that are not capable of exceeding a CTP greater than 190,000 MTOPS in aggregation, except certain transfers as set forth in § 746.3 (Iraq). Computers controlled in this entry for MT reasons are not eligible for NLR.

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■ 61. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A002 is amended by revising the License Requirements section to read as follows:

6A002 Optical sensors

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 2.
MT applies to optical detectors in 6A002.a.1, a.3, or .e that are specially designed or modified to protect "missiles" against nuclear effects (e.g., Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for "missiles".	MT Column 1.
RS applies to 6A002.a.1, a.2, a.3, .c, and .e.	RS Column 1.
CC applies to police-model infrared viewers in 6A002.c.	CC Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to 6A002.a.1, a.2 a.3 and c.	Iraq and Rwanda.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

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■ 62. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A003 is amended by revising the License Requirements section to read as follows:

6A003 Cameras

License Requirements

Reason for Control: NS, NP, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 2.
NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4.	NP Column 1.
RS applies to items controlled in 6A003.b.3 and b.4.	RS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to items controlled in 6A003.b.3 and b.4.	Iraq and Rwanda.

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■ 63. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, is amended by removing Export Control Classification Number (ECCN) 6A018.

■ 64. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6A992 is

amended by revising the License Requirements section to read as follows:

6A992 Optical Sensors, not controlled by 6A002

License Requirements

Reason for Control: AT

Control(s)	Country Chart
AT applies to entire entry.	AT Column 1 and Iraq.

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■ 65. In Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6E001 is amended by revising the heading and the License Requirements section to read as follows:

6E001 "Technology" according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A (except 6A018, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, or 6A998), 6B (except 6B995), 6C (except 6C992 or 6C994), or 6D (except 6D991, 6D992, or 6D993)

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	Country chart
NS applies to "technology" for items controlled by 6A001 to 6A008, 6B004 to 6B008, 6C002 to 6C005, or 6D001 to 6D003.	NS Column 1.
MT applies to "technology" for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons.	MT Column 1.
NP applies to "technology" for items controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225, 6A226, or 6D001 for NP reasons.	NP Column 1.
RS applies to "technology" for equipment controlled by 6A002.a.1, .a.2, .a.3, .c, or .e, 6A003.b.3 or .b.4, or 6A008.j.1.	RS Column 1.
CC applies to "technology" for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry.	AT Column 1.

Control(s)	Country chart
UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	Iraq and Rwanda.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

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■ 66. Supplement No. 1 to part 774 (the Commerce Control List), Category 6—Sensors and Lasers, Export Control Classification Number (ECCN) 6E002 is amended by revising the heading and the License Requirements section to read as follows:

6E002 "Technology" according to the General Technology Note for the "production" of equipment or materials controlled by 6A (except 6A018, 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (except 6B995) or 6C (except 6C992 or 6C994)

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN

Control(s)	Country chart
NS applies to "technology" for equipment controlled by 6A001 to 6A008, 6B004 to 6B008, or 6C002 to 6C005.	NS Column 1.
MT applies to "technology" for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, or 6B108 for MT reasons.	MT Column 1.
NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons.	NP Column 1.
RS applies to "technology" for equipment controlled by 6A002.a.1, .a.2, .a.3, .c, or .e, 6A003.b.3 or .b.4, or 6A008.j.1.	RS Column 1.
CC applies to "technology" for equipment controlled by 6A002 for CC reasons.	CC Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	Iraq and Rwanda.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

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■ 67. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, Export Control Classification Number (ECCN) 8A018 is amended by revising the License Requirements section to read as follows:

8A018 Items on the International Munitions List

License Requirements

Reason for Control: NS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 68. In Supplement No. 1 to part 774 (the Commerce Control List), Category 8—Marine, Export Control Classification Number (ECCN) 8A918 is amended by revising the License Requirements section to read as follows:

8A918 Marine Boilers

License Requirements

Reason for Control: RS, AT, UN

Control(s)	Country chart
RS applies to entire entry.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 69. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9A018 is amended by revising the License Requirements section to read as follows:

9A018 Equipment on the International Munitions List

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and b.	RS Column 2.
AT applies to entire entry.	AT Column 1.

Control(s)	Country chart
UN applies to entire entry.	Iraq and Rwanda.

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■ 70. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9A991 is amended by revising the License Requirements section to read as follows:

9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

License Requirements

Reason for Control: AT, UN

Control(s)	Country chart
AT applies to entire entry.	AT Column 1.
UN applies to 9A991.a ..	Iraq and Rwanda.

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■ 71. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9D018 is amended by revising the License Requirements section to read as follows:

9D018 “Software” for the “use” of equipment controlled by 9A018

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1.
RS applies to 9A018.a and .b.	RS Column 2.
AT applies to entire entry.	AT Column 1.
UN applies to entire entry.	Iraq and Rwanda.

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■ 72. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9E018 is amended by revising the License Requirements section to read as follows:

9E018 “Technology” for the “development”, “production”, or “use” of equipment controlled by 9A018

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	Country chart
NS applies to entire entry.	NS Column 1
RS applies to 9A018.a and .b.	RS Column 2
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	Iraq and Rwanda

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■ 73. Supplement No. 2 to Part 774 (General Technology and Software Notes) is revised to read as follows:

Supplement No. 2 to Part 774 (General Technology and Software Notes)

1. *General Technology Note.* The export of “technology” that is “required” for the “development”, “production”, or “use” of items on the Commerce Control List is controlled according to the provisions in each Category.

“Technology” “required” for the “development”, “production”, or “use” of a controlled product remains controlled even when applicable to a product controlled at a lower level.

License Exception TSU is available for “technology” that is the minimum necessary for the installation, operation, maintenance (checking), and repair of those products that are eligible for License Exceptions or that are exported under a license.

N.B.: This does not allow release under a License Exception of the repair “technology” controlled by 1E002.e, 1E002.f, 8E002.a, or 8E002.b.

N.B.: The “minimum necessary” excludes “development” or “production” technology and permits “use” technology only to the extent “required” to ensure safe and efficient use of the product. Individual ECCNs may further restrict export of “minimum necessary” information.

2. *General Software Note.* License Exception TSU (“mass market” software) is available to all destinations, except countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR, for release of software that is generally available to the public by being:

- a. Sold from stock at retail selling points, without restriction, by means of:
 1. Over the counter transactions;
 2. Mail order transactions;
 3. Electronic transactions; or
 4. Telephone call transactions; and
- b. Designed for installation by the user without further substantial support by the supplier.

Note: The General Software Note does not apply to “software” controlled by Category 5—part 2 (“Information Security”). For

“software” controlled by Category 5, part 2, see Supplement No. 1 to part 774, Category 5, part 2, Note 3—Cryptography Note.

Dated: July 28, 2004.

Peter Lichtenbaum,
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Administration.*

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