

**RECORD OF COMMENTS: REVISION OF EXPORT AND REEXPORT  
RESTRICTIONS ON LIBYA; INTERIM RULE**

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**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Parts 732, 736, 740, 742, 744, 746, 762, and 772****[Docket No. 040422128-4128-01]****RIN 0694-AD14****Revision of Export and Reexport Restrictions on Libya****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Interim rule with request for comments.

**SUMMARY:** In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to implement the President's April 23, 2004, decision to revise United States sanctions against Libya. This rule also implements the transfer to the Department of Commerce from the Department of Treasury of the licensing jurisdiction for exports to Libya of items subject to the EAR.

**DATES:** This rule is effective April 29, 2004. Comments must be received on or before June 1, 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](mailto:squarter@bis.doc.gov).

**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](mailto:jroberts@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:****Background**

On April 23, 2004, in response to Libya's continued effort to completely dismantle its weapons of mass destruction and missile programs, and adhere to its renunciation of terrorism, the President announced the termination of the application of the Iran and Libya Sanctions Act with respect to Libya. Also, the Treasury Department modified sanctions imposed on U.S. firms and individuals under the authority of the International Emergency Economic Powers Act to allow the resumption of most commercial activities, financial transactions, and investments. This rule sets forth the new export control policy for exports

(and reexports) to Libya under the licensing responsibility of the Department of Commerce, Bureau of Industry and Security (BIS).

*Previous Licensing Regime*

Since January 1986, in response to Libya's repeated use and support of terrorism against the United States, other countries, and innocent persons, the U.S. has maintained economic sanctions against Libya through the Libyan Sanctions Regulations (31 CFR Part 550) and the Export Administration Regulations (15 CFR Part 730 *et seq.*). The Department of the Treasury and the Department of Commerce shared licensing responsibility for proposed U.S. exports and reexports to Libya. The Department of the Treasury's Office of Foreign Assets Control (OFAC) had licensing jurisdiction for exports to Libya, including transshipments via third countries. Authorization granted by OFAC constituted authorization under the EAR. BIS had licensing jurisdiction for reexports of U.S.-origin items to Libya.

**Overview: New Licensing Policy for Exports and Reexports to Libya***License Requirements for Exports and Reexports to Libya*

Under the new policy established by this Rule, BIS will require a license for the export or reexport of most items on the Commerce Control List (CCL) to Libya. This requirement applies to the export or reexport of all items under the jurisdiction of the Department of Commerce that are on the multilateral export control regime lists: the Wassenaar Arrangement (reason for control: National Security—NS), the Nuclear Suppliers' Group (reason for control: Nuclear Nonproliferation—NP), the Australia Group (reasons for control: Chemical and Biological Weapons—CB) and the Missile Technology Control Regime (reason for control: Missile Technology—MT).

A license requirement also applies to items unilaterally controlled for crime control (CC) or regional stability (RS) reasons.

In addition, a license requirement applies to most U.S.-origin items unilaterally controlled for anti-terrorism (AT) reasons, as set forth specifically in new § 742.20 of the EAR.

The license requirements described above are reflected in the relevant columns of the Country Chart in Supplement No. 1 to part 738 of the EAR. BIS also will require a license for certain categories of items that are controlled for reasons not included on the Country Chart: encryption (EI), short

supply (SS), Chemical Weapons (CW), Computers (XP), and Significant Items (SI).

Items subject to the EAR but not specifically listed on the CCL—referred to as EAR99 items—do not require an export or reexport license to Libya. This rule, however, does not relieve exporters and others of their responsibility to comply with obligations under the end-user and end-use controls maintained under the Enhanced Proliferation Control Initiative (EPCI), as set forth in Part 744 of the EAR.

*Licensing Policy*

As set forth in new § 742.20 of the EAR, a general policy of denial will apply to applications for exports or reexports of the following items to Libya: items controlled for chemical and biological weapons proliferation reasons; military-related items controlled for national security reasons; items that are controlled for missile proliferation reasons; cryptographic, cryptoanalytic, and cryptologic items controlled for national security reasons; explosives detection equipment controlled under Export Control Classification Number (ECCN) 2A983; "Software" (ECCN 2D983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983; "Technology" (ECCN 2E983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983; commercial charges and devices controlled under ECCN 1C992; ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997; and technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355. All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components will generally be denied, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval.

Also, BIS will generally deny all applications for export and reexport to Libya of items controlled for AT (Column 1) reasons, and not described above, if such items are destined to military, police or intelligence end-users in Libya.

BIS will review, on a case-by-case basis, all other applications for exports or reexports to Libya under the

applicable licensing policy described in Part 742 of the EAR.

#### *License Exceptions*

Libya is presently listed in Country Groups D:2, D:3, D:4, E:1 and E:2, found in Supplement 1 to Part 740. This rule removes Libya from Country Group E:2. As a result, the following License Exceptions may be available, in whole or in part: TMP, RPL, GOV, GFT, TSU, BAG, and AVS. 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, § 740.2 Restrictions on all License Exceptions).

#### *Transition for Licenses Granted by OFAC*

To facilitate a smooth transition of licensing responsibility from OFAC to BIS, this rule extends the validity of licenses issued by OFAC for exports to Libya. OFAC licenses in effect as of April 29, 2004, are hereby continued in accordance with their terms, except as modified by this Rule or by BIS, as if issued by the Department of Commerce. For those licenses with specified expiration dates, such dates will continue to apply. Licenses without specified expiration dates will be valid through May 1, 2005. Items licensed by OFAC and subsequently returned from Libya to the United States do not require further authorization from BIS. However, persons returning items that were previously exported to Libya under a specific license granted by OFAC to the United States are subject to a recordkeeping requirement set forth in Part 762 of the EAR.

In addition, items exported or reexported to Libya under a specific OFAC license may not be transferred within Libya to a new end-user without further authorization from BIS. Reexports of items to countries other than the United States from Libya including those previously authorized under OFAC licenses must conform with the relevant provisions of the EAR for 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 a recordkeeping requirement.

Although the Export Administration Act of 1979 (EAA), as amended, expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783) as extended by the Notice of August 7, 2003 (68 FR 47833,

August 11, 2003), continues the EAR in effect under the International Emergency Economic Powers Act. BIS amends the EAR in this rule under the provisions of the EAA as continued in effect under IEEPA and Executive Order 13222.

#### **Rulemaking Requirements**

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

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748.

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 or 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 rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

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 June 1, 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 or 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, Room 6881, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Industry and Security Freedom of Information Officer, at the above address or by calling (202) 482-0500.

#### **List of Subjects**

##### *15 CFR Parts 732 and 740*

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

##### *15 CFR Parts 736, 742, and 772*

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, 736, 740, 742, 744, 746, 762, and 772 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 is revised 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, Iraq, and Libya." in the next to last sentence of paragraph (d)(2) to read "Cuba, Iran, and Iraq."; and
  - b. By revising the phrase "embargoed countries (e.g., Cuba, Iran, Iraq, and Libya)." in (d)(3) to read "countries subject to a comprehensive embargo (e.g., Cuba, Iran, and Iraq).".

**§ 732.2 [Amended]**

■ 3. Section 732.2 is amended by revising the phrase "Your export or reexport destination for the direct

product is Cuba, Libya." in paragraph (f)(1)(i) to read "Your export or reexport destination for the direct product is Cuba".

- 4. Section 732.3 is amended:
  - a. By revising the phrase "Your export or reexport destination for the direct product is Cuba, Libya." in paragraph (f)(1)(i) to read "Your export or reexport destination for the direct product is Cuba";
  - b. By revising the phrase "If your destination for any item is Cuba, Iran, Iraq, Libya or Rwanda" in paragraph (i) to read "If your destination for any item is Cuba, Iran, Iraq or Rwanda"; and
  - c. 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, Iran, and Iraq; 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 Rwanda, the Country Chart provides for certain license requirements, and part 746 of the EAR provides additional requirements.

**PART 736—[AMENDED]**

■ 5. The authority citation for 15 CFR part 736 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328; Notice of October 29, 2003, 68 FR 62209, 3 CFR, 2003 Comp., p. 347.

**§ 736.2 [Amended]**

■ 6. Section 736.2 is amended by revising the phrase "General Prohibition Three to Cuba, Libya," in paragraph (b)(3)(i) to read "General Prohibition Three to Cuba".

**PART 738—[AMENDED]**

■ 7. The authority citation for 15 CFR part 738 is revised 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.

■ 8. Supplement No. 1 to part 738 is amended by revising the entry for "Libya" to read as follows:

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART  
 [Reason for control]

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

\* \* \* \* \*

**PART 740—[AMENDED]**

■ 9. The authority citation for 15 CFR part 740 is revised 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.

**§ 740.2 [Amended]**

■ 10. Section 740.2 is amended by revising the phrase "The export or reexport is to an embargoed destination (Cuba, Iran, Iraq, and Libya)." in paragraph (a)(6) to read "The export or

reexport is to an embargoed destination (Cuba, Iran, and Iraq).";

**§ 740.9 [Amended]**

- 11. Section 740.9 is amended:
  - a. By revising the sentence "No foreign-origin items may be returned to Cuba or Libya." in paragraph (b)(3) to read "No foreign-origin items may be returned to Cuba.";
  - b. By revising the phrase "A destination in Cuba or Libya;" in paragraph (b)(4)(i) to read "A destination in Cuba"; and
  - c. By revising the phrase "except Cuba, Iran, Iraq, Libya, and Sudan" in paragraph (c)(2) to read "except Cuba, Iran, Iraq, and Sudan".

**§ 740.15 [Amended]**

■ 12. Section 740.15 is amended by revising the phrase "to a country included in Country Group D:1, Cuba, or Libya," in paragraph (b)(2) to read "to a country included in Country Group D:1, Cuba,".

**Supplement No. 1 to Part 740 [Amended]**

- 13. Supplement No. 1 to part 740 is amended:
  - a. By removing Libya from Country Group E:2; and
  - b. By revising footnote 1(a) to Country Group E to read "A comprehensive embargo against Cuba, Iran, Iraq, and Sudan; and".

**PART 742—[AMENDED]**

■ 14. 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; 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; 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.

■ 15. Section 742.1 is amended:

■ a. By revising the heading “*Exports and reexports involving Cuba, Libya, Iraq, Iran, and the Bosnian Serb-controlled areas of Bosnia-Herzegovina*” of paragraph (c) to read “*Exports and reexports involving Cuba, Iran, and Iraq*”;

■ b. By revising the parenthetical phrase “(Cuba, Libya, Iraq, Iran and the Bosnian Serb-controlled areas of Bosnia-Herzegovina)” in paragraph (c) to read “(Cuba, Iran, and Iraq)”;

■ c. By revising paragraph (d) to read as set forth below; and

■ d. By revising the phrase “certain exports to and for the use of certain foreign vessels or aircraft; and certain exports to all countries for Libya aircraft.” in paragraph (e) to read “and certain exports to and for the use of certain foreign vessels and aircraft.”

**§ 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, 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. Commerce also maintains controls under section 6(j) of the EAA to Cuba, Libya, Iran, Iraq, 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, Iraq, 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.

\* \* \* \* \*

■ 16. Part 742 is amended by adding a new § 742.20 to read as follows:

**§ 742.20 Anti-terrorism: Libya.**

(a) *License requirements.* (1) If AT Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, BIS requires a license for export and reexport to Libya for anti-terrorism purposes.

(2) The Secretary of State has designated Libya as a country whose government has repeatedly provided support for acts of international terrorism.

(3) In support of U.S. foreign policy against terrorism, BIS maintains two types of anti-terrorism controls on the export and reexport to Libya of items described in Supplement No. 2 to part 742.

(i) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742, if destined to military, police, intelligence or other end-users in Libya, are controlled under section 6(j) of the Export Administration Act, as amended (EAA).

(ii) Items listed in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to other end-users in Libya, as well as items to all end-users listed in (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(44) of Supplement No. 2 to part 742, are controlled to Libya under section 6(a) of the EAA.

(b) *License policy.* (1) Applications for export and reexport to all end-users in Libya of the following items will generally be denied:

(i) Items controlled for chemical and biological weapons proliferation reasons to any destination. These are items that contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the “License Requirements” section of an ECCN on the CCL.

(ii) Military-related items controlled for national security reasons to any destination. These are items that contain NS Column 1 or RS Column 2 in the Country Chart column of the “License Requirements” section in an ECCN on the CCL and are controlled by equipment or material entries ending in the number “18.”

(iii) Items controlled for missile proliferation reasons to any destination. These are items that have an MT Column 1 in the Country Chart column of the “License Requirements” section of an ECCN on the CCL.

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval. These are items controlled to any destination for national security and missile technology reasons and items controlled to Libya for anti-terrorism purposes. Such items contain an NS Column 1, NS Column 2, MT Column 1, or AT Column 1 in the Country Chart column of the “License Requirements” section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated into foreign made products, all aircraft-related items that require a license to Libya will be controlled U.S. content, except for ECCNs 6A998, 7A994, and 9A991.d, for purposes of such licensing requirements.

(v) Cryptographic, cryptoanalytic, and crypto-logic items controlled to any destination for national security reasons. Such items contain an AT Column 1 and an NS Column 1 or NS Column 2 in the Country Chart column of the “License Requirements” section of an ECCN on the CCL.

(vi) Explosives detection equipment controlled under ECCN 2A983.

(vii) “Software” (ECCN 2D983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983.

(viii) “Technology” (ECCN 2E983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983.

(ix) Commercial charges and devices controlled under ECCN 1C992.

(x) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(xi) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.

(2) Applications for export and reexport to Libya of all other items described in paragraph (a) of this section, and not described by paragraph (b)(1) of this section, will generally be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2), of this

section, applications for Libya will be considered on a case-by-case basis if:

- (i) The U.S. content of foreign-produced commodities is 20% or less by value; or
- (ii) The commodities are medical items.

**Note to paragraph (b) of this section:**

Applicants who wish any of the factors described in paragraph (b) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content or the specifications and medical use of the equipment.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Libya, including its military logistics capability, or could enhance Libya's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license.

■ 17. Supplement No. 2 to part 742 is revised 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**

**Note:** Exports and reexports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanctity date. The contract sanctity dates set forth in this Supplement are for the guidance of exporters. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If you believe that a specific contract sanctity date is applicable to your transaction, you should include all relevant information with your license application. BIS will determine any applicable contract sanctity date at the time an application with relevant supporting documents is submitted.

(a) *Terrorist supporting countries.* The Secretary of State has designated Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria as countries whose governments have repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act (EAA).

(b) *Items controlled under EAA sections 6(j) and 6(a).* Whenever the Secretary of State determines that an export or reexport to any of these countries could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of

such country to support acts of international terrorism, the item is subject to mandatory control under EAA section 6(j) and the Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before a license for such an item may be issued.

(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.

(2) License applications for items controlled to designated terrorist-supporting countries under EAA section 6(a) will also be reviewed to determine whether the Congressional notification requirements of EAA section 6(j) apply.

(3) Items controlled for anti-terrorism reasons under section 6(a) to Iran, Libya, North Korea, Sudan, and Syria are:

- (i) Items described in paragraphs (c)(1) through (c)(5) to non-sensitive end-users, and
- (ii) The following items to all end-users: for Iran, items in paragraphs (c)(6) through (c)(44) of this Supplement; for North Korea, items in paragraph (c)(6) through (c)(45) of this Supplement; for Sudan, items in paragraphs (c)(6) through (c)(14), and (c)(16) through (c)(44) of this Supplement; for Libya and Syria, items in paragraphs (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(44) of this Supplement.

(c) The license requirements and licensing policies for items controlled for anti-terrorism reasons to Iran, Syria, Sudan, North Korea, and Libya are generally described in §§ 742.8, 742.9, 742.10, 742.19, and 742.20 of this part, respectively. This Supplement provides guidance on licensing policies for Iran, Libya, North Korea, Syria, and Sudan and related contract sanctity dates that may be available for transactions benefitting from pre-existing contracts involving Iran, Syria, and Sudan. Exporters are advised that the Treasury Department's Office of Foreign Assets Control administers a comprehensive trade and investment embargo against Iran (See Executive Orders 12957, 12959 and 13059 of March 15, 1995, May 6, 1995 and August 19, 1997, respectively.) Exporters are further advised that exports and reexports to Iran of items that are listed on the CCL as requiring a license for national security or foreign policy reasons are subject to a policy of denial under the Iran-Iraq Arms Non-Proliferation Act of October 23, 1992 (50 U.S.C. 1701 note (1994)). Transactions involving Iran and benefitting from a contract that pre-dates October 23, 1992 may be considered under the applicable licensing policy in effect prior to that date.

(1) *All items subject to national security controls.*

(i) *Iran.* Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of items valued at \$7 million or more: January 23, 1984.

(B) Contract sanctity date for military end-users or end-uses of all other national security controlled items: September 28, 1984.

(C) Contract sanctity date for non-military end-users or end-uses: August 28, 1991, unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement.

(ii) *Syria.* Applications for military end-users or military end-uses in Syria will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. No contract sanctity date is available for items valued at \$7 million or more to military end-users or end-uses. The contract sanctity date for all other items for all end-users: December 16, 1986.

(iii) *Sudan.* Applications for military end-users or military end-uses in Sudan will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. Contract sanctity date: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea.* Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya.* Applications for military end-users or military end-uses in Libya will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement.

(2) *All items subject to chemical and biological weapons proliferation controls.* Applications for all end-users in Iran, Libya, North Korea, Syria, or Sudan of these items will generally be denied. See Supplement No. 1 to part 742 for contract sanctity dates for Iran and Syria. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993), or unless an earlier date for any item is listed in Supplement 1 to part 742.

(3) *All items subject to missile proliferation controls (MITR).* Applications for all end-users in Iran, Libya, North Korea, Syria, or Sudan will generally be denied. Contract sanctity provisions for Iran and Syria are not available. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(4) *All items subject to nuclear weapons proliferation controls (NRL).*

(i) *Iran.* Applications for all end-users in Iran will generally be denied. No contract sanctity date is available.

(ii) *Syria.* Applications for military end-users or end-uses to Syria will generally be denied. Applications for non-military end-users or end-uses will be considered on a

case-by-case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. No contract sanctity date is available.

(iii) *Sudan*. Applications for military end-users or end-uses in Sudan will generally be denied. Applications for export and reexport to non-military end users or end-uses will be considered on a case by case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement. No contract sanctity date is available.

(iv) *North Korea*. Applications for all end-users in North Korea will generally be denied.

(v) *Libya*. Applications for military end-users or end-uses to Libya will generally be denied. Applications for non-military end-users or end-uses will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(2) through (c)(42) of this Supplement.

(5) *All military-related items, i.e., applications for export and reexport of items controlled by CCL entries ending with the number "18"*.

(i) *Iran*. Applications for all end users in Iran will generally be denied. Contract sanctity date: see paragraph (c)(1)(i) of this Supplement.

(ii) *Syria*. Applications for all end-users in Syria will generally be denied. Contract sanctity date: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan*. Applications for all end-users in Sudan will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end users in North Korea will generally be denied.

(v) *Libya*. Applications for all end users in Libya will generally be denied.

(6) *All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for helicopters exceeding 10,000 lbs. empty weight or fixed wing aircraft valued at \$3 million or more: January 23, 1984.

(B) Contract sanctity date for other helicopters and aircraft and gas turbine engines therefor: September 28, 1984.

(C) Contract sanctity date for helicopter or aircraft parts and components controlled by 9A991.d: October 22, 1987.

(ii) *Syria*. Applications for all end-users in Syria will generally be denied.

(A) There is no contract sanctity for helicopters exceeding 10,000 lbs. empty weight or fixed wing aircraft valued at \$3 million or more; except that passenger aircraft, regardless of value, have a contract sanctity date of December 16, 1986, if destined for a regularly scheduled airline with assurance against military use.

(B) Contract sanctity date for helicopters with 10,000 lbs. empty weight or less: April 28, 1986.

(C) Contract sanctity date for other aircraft and gas turbine engines therefor: December 16, 1986.

(D) Contract sanctity date for helicopter or aircraft parts and components controlled by ECCN 9A991.d: August 28, 1991.

(iii) *Sudan*. Applications for all end-users in Sudan will generally be denied. Contract sanctity date: January 19, 1996.

(iv) *North Korea*. Applications for all end-users in North Korea will generally be denied.

(v) *Libya*. Applications for all end-users in Libya will generally be denied.

(7) *Heavy duty, on-highway tractors*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied. Contract sanctity date: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by case basis. Contract sanctity date: January 19, 1996.

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(8) *Off-highway wheel tractors of carriage capacity 9t (10 tons) or more*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(9) *Large diesel engines (greater than 400 horsepower) and parts to power tank transporters*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *Sudan*. Applications for military end-users or for military end-uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) *North Korea*. Applications for military end-users or for military end-uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(10) *Cryptographic, cryptoanalytic, and cryptologic equipment*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other cryptographic, cryptoanalytic, and cryptologic equipment for all end-users: October 22, 1987.

(ii) *Syria*. A license is required for all national security-controlled cryptographic, cryptoanalytic, and cryptologic equipment to all end-users. Applications for all end-users in Syria will generally be denied. Contract sanctity date for cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan*. Applications for all end-users in Sudan of any such equipment will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end-users in North Korea of any such equipment will generally be denied.

(v) *Libya*. A license is required for all national security-controlled cryptographic, cryptoanalytic, and cryptologic equipment to all end-users. Applications for all end-users in Libya will generally be denied.

(11) *Navigation, direction finding, and radar equipment*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other navigation, direction finding, and radar equipment for all end-users: October 22, 1987.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied.

Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for exports of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other navigation, direction finding, and radar equipment: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan of such equipment will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(12) *Electronic test equipment*.

(i) *Iran*. Applications for all end-users in Iran will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of electronic test equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other electronic test equipment for all end-users: October 22, 1987.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for electronic test equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other electronic test equipment: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied. Applications for non-

military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(13) *Mobile communications equipment*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of mobile communications equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all end-users of all other mobile communications equipment: October 22, 1987.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for mobile communications equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other mobile communications equipment: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan of such equipment will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(14) *Acoustic underwater detection equipment*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of acoustic underwater detection equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other acoustic underwater detection equipment for all end-users: October 22, 1987.

(ii) *Syria*. A license is required for acoustic underwater detection equipment that was

subject to national security controls on August 28, 1991, to all end-users.

Applications for military end-users or for military end-uses in Syria will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for acoustic underwater detection equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan*. Applications for military end-users or for military end-uses to Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such equipment of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of such equipment will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(15) *Portable electric power generator*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of such equipment will be considered on a case-by-case basis.

(16) *Vessels and boats, including inflatable boats*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of vessels and boats that were subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other vessels and boats for all end-users: October 22, 1987.

(ii) *Syria*. A license is required for national security-controlled vessels and boats.

Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for vessels and boats that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied.



Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of these items will be considered on a case-by-case basis.

(v) *Libya*. A license is required for national security controlled vessels and boats.

Applications for military end-users or for military end-uses in Libya of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(17) *Marine and submarine engines (outboard/inboard, regardless of horsepower)*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of marine and submarine engines that were subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for outboard engines of 45 HP or more for all end-users: September 28, 1984.

(C) Contract sanctity date for all other marine and submarine engines for all end-users: October 22, 1987.

(ii) *Syria*. A license is required for all marine and submarine engines subject to national security controls to all end-users. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for marine and submarine engines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of these items will be considered on a case-by-case basis.

(v) *Libya*. A license is required for all marine and submarine engines subject to national security controls to all end-users. Applications for military end-users or for military end-uses in Libya of these items will

generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(18) *Underwater photographic equipment*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of underwater photographic equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment for all end-users: October 22, 1987.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for underwater photographic equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(19) *Submersible systems*.

(i) *Iran*. Applications for all end-users in Iran of such systems will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of submersible systems that were subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other submersible systems for all end-users: October 22, 1987.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for submersible systems that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other submersible systems: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of

such systems will generally be denied.

Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(20) *Scuba gear and related equipment*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied. No contract sanctity is available for such items to Iran.

(ii) *Sudan*. Applications for military end-users and end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(21) *Pressurized aircraft breathing equipment*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(ii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(22) *Computer numerically controlled machine tools*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of computer numerically controlled machine tools that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other computer numerically controlled machine tools for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for computer numerically controlled machine tools that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other computer numerically controlled machine tools: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(23) *Vibration test equipment.*

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of vibration test equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other vibration test equipment for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for vibration test equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other vibration test equipment: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(24) *Digital computers with a CTP of 6 or above, assemblies, related equipment, equipment for development or production of magnetic and optical storage equipment, and materials for fabrication of head/disk assemblies.*

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity dates for military end-users and end-uses of items that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other items for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity dates for items that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other items: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*.

(A) Computers with a CTP above 2000 MTOPS: Applications for all end-users will generally be denied.

(B) Computers with a CTP at or below 2000 MTOPS: Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, will generally be denied. Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(25) *Telecommunications equipment.*

(i) A license is required for the following telecommunications equipment:

(A) Radio relay systems or equipment operating at a frequency equal to or greater than 19.7 GHz or "spectral efficiency" greater than 3 bit/s/Hz;

(B) Fiber optic systems or equipment operating at a wavelength greater than 1000 nm;

(C) "Telecommunications transmission systems" or equipment with a "digital transfer rate" at the highest multiplex level exceeding 45 Mb/s.

(ii) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of telecommunications equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other vibration test equipment for all end-users: August 28, 1991.

(iii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for exports of telecommunications equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other telecommunications equipment: August 28, 1991.

(iv) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(v) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(vi) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(26) *Microprocessors.*

(i) Operating at a clock speed over 25 MHz.

(A) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(1) Contract sanctity date for military end-users and end-uses of microprocessors that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(2) Contract sanctity dates for all other microprocessors for all end-users: August 28, 1991.

(B) *Syria*. Applications for military end-users or for military end-uses in Syria of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(1) Contract sanctity date for microprocessors that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(2) Contract sanctity date for all other microprocessors: August 28, 1991.

(C) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(D) *Libya*. Applications for military end-users or for military end-uses in Libya of

these items will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(ii) With a CTP of 550 MTOPS or above.

(A) *North Korea*. Applications for all end-users in North Korea of these items will generally be denied.

(B) [RESERVED]

(27) *Semiconductor manufacturing equipment*. For Iran, Syria, Sudan, North Korea, or Libya a license is required for all such equipment described in ECCNs 3B001 and 3B991.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other microprocessors for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other semiconductor manufacturing equipment: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(28) *Software specially designed for the computer aided design and manufacture of integrated circuits*.

(i) *Iran*. Applications for all end-users in Iran of such software will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such software that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such software for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such

software will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such software that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such software: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(29) *Packet switches. Equipment described in ECCN 5A991.c*.

(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(A) Contract sanctity date for military end-users and end-uses in Iran of packet switches that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other packet switches for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for packet switches that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other packet switches: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(30) *Specially designed software for air traffic control applications that uses any digital signal processing techniques for automatic target tracking or that has a facility for electronic tracking*.

(i) *Iran*. Applications for all end-users in Iran of such software will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such software that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such software for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such software that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other such software: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(31) *Gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of gravity meters that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such gravity meters for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for gravity meters that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for exports of all other such gravity meters: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(32) *Magnetometers with a sensitivity lower (better) than 1.0 nT rms per square root Hertz*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such magnetometers that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such magnetometers for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such magnetometers that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such magnetometers: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of these items will generally be denied. Applications for non-military end-users or

for non-military end-uses will be considered on a case-by-case basis.

(33) *Fluorocarbon compounds described in ECCN 1C006.d for cooling fluids for radar*.

(i) *Iran*. Applications for all end-users in Iran of such compounds will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such fluorocarbon compounds that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such fluorocarbon compounds for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such compounds will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for such fluorocarbon compounds that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such fluorocarbon compounds: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such compounds will generally be denied.

Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such compounds will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(34) *High strength organic and inorganic fibers (kevlar) described in ECCN 1C210*.

(i) *Iran*. Applications for all end-users in Iran of such fibers will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of high strength organic and inorganic fibers (kevlar) described in ECCN 1C210 that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other high strength organic and inorganic fibers (kevlar) described in ECCN 1C210 for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of such fibers will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for high strength organic and inorganic fibers (kevlar) described in ECCN 1C210 that were subject to national security controls on August 28,

1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other high strength organic and inorganic fibers (kevlar) described in ECCN 1C210: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of such fibers will generally be denied.

Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses, or for nuclear end-users or nuclear end-uses, in North Korea of such equipment will generally be denied.

Applications for non-military end-users or for non-military end-uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of such fibers will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(35) *Machines described in ECCNs 2B003 and 2B993 for cutting gears up to 1.25 meters in diameter*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users and end-uses of such machines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other such machines for all end-users: August 28, 1991.

(ii) *Syria*. Applications for military end-users or for military end-uses in Syria of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(A) Contract sanctity date for machines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other machines: August 28, 1991.

(iii) *Sudan*. Applications for military end-users or for military end-uses in Sudan of these items will generally be denied.

Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996,

unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(v) *Libya*. Applications for military end-users or for military end-uses in Libya of

these items will generally be denied.

Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(36) *Aircraft skin and spar milling machines.*

(i) *Iran.* Applications for all end users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end users and end uses of aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other aircraft skin and spar milling machines to all end users: August 28, 1991.

(ii) *Syria.* Applications for military end users or for military end uses in Syria of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(A) Contract sanctity date for aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other aircraft skin and spar milling machines: August 28, 1991.

(iii) *Sudan.* Applications for military end users or for military end uses in Sudan of these items will generally be denied.

Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea.* Applications for all end users in North Korea of such equipment will generally be denied.

(v) *Libya.* Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(37) *Manual dimensional inspection machines described in ECCN 2B996.*

(i) *Iran.* Applications for all end users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end users or end uses of manual dimensional inspection machines that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other manual dimensional inspection machines for all end users: August 28, 1991.

(ii) *Syria.* Applications for military end users or for military end uses in Syria of these items will generally be denied. Applications for non-military end users or for non-military end uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for such manual dimensional inspection machines that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such manual dimensional inspection machines: August 28, 1991.

(iii) *Sudan.* Applications for military end users or for military end uses in Sudan of these items will generally be denied.

Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea.* Applications for military end users or for military end uses, or for nuclear end users or nuclear end uses, in North Korea of such equipment will generally be denied. Applications for non-military end users or for non-military end uses, or for non-nuclear end users or non-nuclear end uses, in North Korea will be considered on a case-by-case basis.

(v) *Libya.* Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.

(38) *Robots capable of employing feedback information in real time processing to generate or modify programs.*

(i) *Iran.* Applications for all end users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end users or end uses of such robots that were subject to national security controls on August 28, 1991; see paragraphs (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other such robots: August 28, 1991.

(ii) *Syria.* Applications for military end users or for military end uses in Syria of these items will generally be denied. Applications for non-military end users or for non-military end uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for such robots that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanctity date for all other such robots: August 28, 1991.

(iii) *Sudan.* Applications for military end users or for military end uses in Sudan of these items will generally be denied.

Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea.* Applications for military end users or for military end uses, or for nuclear end users or nuclear end uses, in North Korea of such equipment will generally be denied. Applications for non-military end users or for non-military end uses, or for non-nuclear end users or non-nuclear end uses, in North Korea will be considered on a case-by-case basis.

(v) *Libya.* Applications for military end users or for military end uses in Libya of

these items will generally be denied.

Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.

(39) *Explosives detection equipment described in ECCN 2A983.*

(i) Explosives detection equipment described in ECCN 2A983, controlled prior to April 3, 2003 under ECCN 2A993.

(A) *Iran.* Applications for all end users in Iran of these items will generally be denied. Contract sanctity date: January 19, 1996.

(B) *Syria.* Applications for all end users in Syria of these items will generally be denied. Contract sanctity date: January 19, 1996.

(C) *Sudan.* Applications for all end users in Sudan of these items will generally be denied. Contract sanctity date: January 19, 1996.

(D) *North Korea.* Applications for all end users in North Korea of these items will generally be denied.

(E) *Libya.* Applications for all end users in Libya of these items will generally be denied.

(ii) Explosives detection equipment described in ECCN 2A983, not controlled prior to April 3, 2003 under ECCN 2A993.

(A) *Iran.* Applications for all end users in Iran of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(B) *Syria.* Applications for all end users in Syria of these items will generally be denied. Contract sanctity date: March 21, 2003.

(C) *Sudan.* Applications for all end users in Sudan of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(D) *North Korea.* Applications for all end users in North Korea of these items will generally be denied. Contract sanctity date: March 21, 2003.

(E) *Libya.* Applications for all end users in Libya of these items will generally be denied.

(40) *“Software” described in ECCN 2D983 specially designed or modified for the “development”, “production” or “use” of explosives detection equipment.*

(i) *Iran.* Applications for all end users in Iran of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(ii) *Syria.* Applications for all end users in Syria of these items will generally be denied. Contract sanctity date: March 21, 2003.

(iii) *Sudan.* Applications for all end users in Sudan of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(iv) *North Korea.* Applications for all end users in North Korea of these items will generally be denied. Contract sanctity date: March 21, 2003.

(v) *Libya.* Applications for all end users in Libya of these items will generally be denied.

(41) *“Technology” described in ECCN 2E983 specially designed or modified for the “development”, “production” or “use” of explosives detection equipment.*

(i) *Iran.* Applications for all end users in Iran of these items will generally be denied. Contract sanctity date for reexports by non-U.S. persons: March 21, 2003.

(ii) *Syria.* Applications for all end users in Syria of these items will generally be denied. Contract sanctity date: March 21, 2003.

(iii) *Sudan*. Applications for all end-users in Sudan of these items will generally be denied. Contract sanctity date for reexports by non U.S. persons: March 21, 2003.

(iv) *North Korea*. Applications for all end-users in North Korea of these items will generally be denied. Contract sanctity date: March 21, 2003.

(v) *Libya*. Applications for all end-users in Libya of these items will generally be denied.

(42) *Production technology controlled under ECCN 1C355 on the CCL*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(ii) *Syria*. Applications for military end users or for military end uses in Syria of these items will generally be denied.

Applications for non-military end-users or for non military end-uses in Syria will be considered on a case by case basis.

(iii) *Sudan*. Applications for all end-users in Sudan of these items will generally be denied.

(iv) *North Korea*. Applications for military end users or for military end uses in North Korea of these items will generally be denied. Applications for non military end users or for non military end uses will be considered on a case by case basis.

(v) *Libya*. Applications for military end-users or for military end uses in Libya of these items will generally be denied. Applications for non military end users or for non military end uses in Libya will be considered on a case by case basis.

(43) *Commercial Charges and devices controlled under ECCN 1C992 on the CCL*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(ii) *Syria*. Applications for all end users in Syria of these items will generally be denied.

(iii) *Sudan*. Applications for all end users in Sudan of these items will generally be denied.

(iv) *North Korea*. Applications for all end users in North Korea of these items will generally be denied.

(v) *Libya*. Applications for all end-users in Libya of these items will generally be denied.

(44) *Ammonium nitrate, including certain fertilizers containing ammonium nitrate, under ECCN 1C997 on the CCL*.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(ii) *Syria*. Applications for all end users in Syria of these items will generally be denied. Contract sanctity date: June 15, 2001.

(iii) *Sudan*. Applications for all end-users in Sudan of these items will generally be denied.

(iv) *North Korea*. Applications for all end users in North Korea of these items will generally be denied. Contract sanctity date: June 15, 2001.

(v) *Libya*. Applications for all end users in Libya of these items will generally be denied.

(45) *Specific processing equipment, materials and software controlled under ECCNs 0A999, 0B999, 0D999, 1A999, 1C999, 1D999, 2A999, 2B999, 3A999, and 6A999 on the CCL*.

(i) *North Korea*. Applications for military end users or for military end uses, or for nuclear end users or nuclear end uses, in North Korea of such equipment will generally be denied. Applications for non-

military end-users or for non-military end uses, or for non-nuclear end-users or non-nuclear end-uses, in North Korea will be considered on a case-by-case basis.

(ii) [Reserved]

#### PART 744—[AMENDED]

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

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 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.

#### § 744.8 [Removed and reserved]

■ 19. Part 744 is amended by removing and reserving § 744.8.

#### 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; 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; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

#### § 746.1 [Amended]

■ 21. Section 746.1 is amended:

■ a. By revising the phrase "currently Cuba, Libya, Iran, and Iraq," in paragraph (a) to read "currently Cuba, Iran, and Iraq"; and

■ b. By revising the header "Cuba and Libya," for paragraph (a)(1) to read "Cuba,"; and

■ c. By revising the phrase "require a license to Cuba or Libya," in paragraph (a)(1) to read "require a license to Cuba."

#### § 746.4 [Removed and reserved]

■ 22. Part 746 is amended by removing and reserving § 746.4.

#### PART 762—[AMENDED]

■ 23. The authority citation for 15 CFR part 762 is revised 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.

■ 24. Section 762.2 is amended by adding new paragraph (c) to read as follows:

#### § 762.2 Records to be retained.

\* \* \* \* \*

(c) *Special recordkeeping requirement.*

(1) *Libya*. Persons in receipt of a specific license granted by the Department of the Treasury's Office of Foreign Assets Control (OFAC) for the export to Libya of any item subject to the EAR must maintain a record of those items transferred to Libya pursuant to such specific license and record when the items are consumed or destroyed in the normal course of their use in Libya, 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 Libya as of April 29, 2004. These records 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 Libya 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 Libya, or the date of reexport to a third country not requiring further authorization from BIS, or return to the United States.

(2) [Reserved]

#### PART 772—[AMENDED]

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

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

#### § 772.1 [Amended]

■ 26. Section 772.1 is amended:

■ a. By revising the phrase "export license applications to Iran, Sudan and Libya" in Note 3 following the definition of *Agricultural commodities* to read "export license applications to Iran and Sudan";

■ b. By revising the phrase "for export to Iran, Libya and Sudan" in the paragraph entitled *Medical devices* to read "for export to Iran and Sudan"; and

- c. By revising the phrase “for export to Iran, Libya and Sudan” in the paragraph entitled *Medicines* to read “for export to Iran and Sudan”.

Dated: April 23, 2004.

**Peter Lichtenbaum,**

*Assistant Secretary for Export  
Administration.*

[FR Doc. 04-9717 Filed 4-27-04; 1:21 pm]

BILLING CODE 3510-33-P

**SHEILA QUARTERMAN - Comments; Interim Rule; 69 FR 23626 (4/29/04)**

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**From:** "David W. Boston" <dwboston@ocsresponds.com>  
**To:** <squarter@bis.doc.gov>  
**Date:** 5/28/2004 2:54 PM  
**Subject:** Comments; Interim Rule; 69 FR 23626 (4/29/04)  
**CC:** "Jeff West" <JWest@CoreLab.com>, "John D. Denson" <John.Denson@CoreLab.com>, "Ed Krauland" <ekrauland@steptoe.com>, <dlorello@steptoe.com>

---

Please accept the attached comments relating to the a/r interim rule. The original is being posted by U.S. Mail today.

David W. Boston  
President  
Owen Compliance Services, Inc.  
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web: <http://www.ocsresponds.com>

*"I'm uncomfortable when I'm comfortable ... I can't help it, it's my personality." -- Jay Chiat*





Owen Oil Tools Division  
P.O. Box 568  
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Godley, TX 76044  
Phone: 817.551.0540  
Fax: 817.551.6577

May 28, 2004

Via U.S. MAIL

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

**Re: Comment on Interim Rule Export and Re-Export Restrictions on Libya**

Dear Ms. Quarterman:

Owen Oil Tools, LP ("Owen") hereby submits a comment on the Bureau of Industry and Security ("BIS") interim rule relating to "Revision of Export and Reexport Restrictions on Libya," 69 Fed. Reg. 23,626 (April 29, 2004). We thank BIS for the opportunity to comment on this important set of new regulations. Owen has commentary on only one provision in the interim rule -- the interim section 742.20(b)(ix), which creates a policy of denial for export / re-export license requests relating to items covered under ECCN 1C992.

Owen is engaged in the manufacture of commercial charges (specifically, oil well perforators) covered under ECCN 1C992. Owen believes that a policy of denying license requests for 1C992 items would have little effect on preventing Libyan entities from accessing those items, but would prevent U.S. companies from participating on equal footing in the Libyan market with third-country competitors.

Commercial charges are widely available from foreign sources and have been for many years. In 1993, the Department of Commerce removed national security controls on commercial charges (then controlled under ECCN 1C18A), in large part because the commercial charges were "available . . . from foreign sources in quantities sufficient to render the [national security] controls ineffective in achieving their purpose." (See "Foreign Availability Determination and General License GFW Eligibility for Certain Oil Well Perforators Controlled by ECCN 1C18A.o," 58 Fed. Reg. 61,806 (Dep't Commerce November 23, 1993)). As in 1993, commercial charges today are available for supply to Libyan customers from a number of major third-country manufacturers. Major third-country manufacturers of commercial charges include DynaEnergetics (Germany), ETA (Argentina), and Prime Innicor (Canada). Owen also is aware of a number of state-owned enterprises in China and the former Soviet Union that produce commercial charges, including de-commissioned nuclear facilities in Russia that have been re-tooled to manufacture oil well perforators with the financing of the U.S. Department of Energy's

Nuclear Cities Initiative.<sup>1</sup> Commercial charges manufactured by those companies are free to be sold to customers in Libya. Indeed, commercial charges are more widely available now than in 1993, due to the emergence of new producers in a number of countries that previously had not exported commercial charges (such as China and countries in the former Soviet Union).

The commercial charges manufactured by foreign competitors are comparable to U.S.-manufactured charges in terms of functionality, technology, performance thresholds, and maintainability. To the extent there is any important difference between U.S.-produced and foreign-produced commercial charges, it is that the U.S. product tends to be much safer and more reliable to use. Owen's commercial charges are ISO and CE certified in terms of quality and safety, and U.S. producers generally are required to adhere to stringent product safety guidelines set forth by U.S. agencies (including the Department of Transportation; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; and the Federal Aviation Administration).

Commercial charges categorized under ECCN 1C992 cannot meaningfully be used for purposes other than their intended use, and do not pose a significant risk of being used as munitions. The commercial charges manufactured by Owen (and other U.S. producers) are costly, and commercial charges do not have a sufficient explosive capability to constitute a useful munitions item; if a charge device exceeds a specified quantity of explosive capacity, it would be classified as munitions items under ECCN 1C018 and would not be eligible for export to Libya without a license. Commercial charges also are highly tamper-resistant -- the explosives are consolidated under extremely high pressure into the charge case; the high pressure forms a physical bond between the case and the powder, and it is extremely difficult and unsafe to remove the explosive from the case. Moreover, in order to effectuate a detonation of a commercial charge, it is necessary to initiate the charge with detonating cord, which is, in turn, initiated by means of a detonator. Simply throwing the charge at a target or placing the charge in the pathway of a target likely would not cause the charge to detonate. It is, in short, highly unlikely that a terrorist or foreign government would incur the expense of acquiring a commercial charge for use as a munitions item, particularly insofar as there are other cheaper alternatives available.

Our company is sensitive to the potential diversion of our products for improper end-uses. We are unaware of any information indicating that commercial charges have been used for military or violent activities. If an individual did attempt to use a commercial charge as a munition, that person would find that commercial charges are poorly suited to the task.

Apart from the high standard of reliability and safety of U.S.-built charges, and the remote possibility that anyone could use a charge for a military or violent purposes, U.S. companies such as our

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<sup>1</sup> See, e.g., Department of Energy, Nuclear Cities Initiative website, at <http://www.nnsa.doe.gov/na-20/nci/projects.shtml> (noting development of well perforator manufacturing capabilities, through Department of Energy initiative, in former Russian nuclear weapons manufacturing sites).

Sheila Quarterman  
May 28, 2004  
Page 3

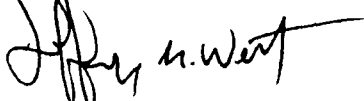
apply rigorous export compliance and material accountability measures when we export commercial charges abroad. It is typical that export licenses for such items, where required, contain a number of provisos to ensure that the products are not diverted to an improper end-use, or are not otherwise warehoused or disposed abroad. Even without such provisos, our company applies careful material accountability procedures when shipping these products abroad (or using them domestically) to ensure we know the whereabouts and use of these items. A general policy of denial would only mean that non-U.S. suppliers of these charges -- which would not be subject to U.S. regulatory jurisdiction, record-keeping requirements, and U.S. standards of material accountability and compliance -- would be supplying products. This would appear to be at odds with U.S. national interests in promoting a high level of confidence in the proper use of these items.

The denial policy for 1C992 items is inconsistent with the notion that U.S. companies should be actively involved in the Libyan energy sector. In contrast to the other countries for whom BIS has instituted a policy of denial for 1C992 items -- including North Korea, Sudan, and Syria (see 15 C.F.R. § 742) -- the U.S. government has recognized that Libya has renounced its past ties to terrorist activities and made significant strides to rejoin the family of nations. Owen believes there is a large market for commercial charges in the Libya. The only practical effect of a policy of denying 1C992 applications would be to prevent U.S. manufacturers of commercial charges from participating in the Libyan market.

Finally, commercial charges are a critical element of effective oil field production and increasing the availability of oil to U.S. and global needs. There are a number of U.S. companies, apart from Owen, that produce these commercial charges, and invest research and development funds to make the most effective product. We believe it is important for the broader U.S. industry to continue to be a leader in this field, and to be able to supply products to U.S. (and other) oil exploration and production companies. Accordingly, Owen strongly urges BIS to reconsider its policy of denial on 1C992 products, and to institute a case-by-case licensing framework that would allow U.S. producers to participate in the emerging Libya market.

Should you have any questions on the above, please feel free to contact Jeff West at Owen ((713)328-2624; [jeff.west@corelab.com](mailto:jeff.west@corelab.com)) or David W. Boston at Owen Compliance Services, Inc. ((817) 551-0660; [dwboston@ocsresponds.com](mailto:dwboston@ocsresponds.com)).

Sincerely,



Jeffrey M. West  
President  
Owen Oil Tools, LP

## **SHEILA QUARTERMAN - Comment Letter Submission - Interim Revision of Export and Reexport Restrictions on Libya**

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**From:** "Chapman, J D "Dan"" <Dan.Chapman@bakerhughes.com>  
**To:** <squarter@bis.doc.gov>  
**Date:** 5/28/2004 3:28 PM  
**Subject:** Comment Letter Submission - Interim Revision of Export and Reexport Restrictions on Libya

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Ms. Quarterman,

On behalf of Baker Hughes Incorporated, I would like to submit the attached comment letter on the interim rule on the "Revision of Export and Reexport Restrictions on Libya," 69 Fed. Reg. 23,626 (April 29, 2004). I would greatly appreciate confirmation of your receipt at your earliest convenience.

Please do not hesitate to contact me if you have any questions or comments regarding the attached letter.

Best regards,

J. Daniel Chapman  
Legal Counsel  
Baker Hughes Incorporated  
Telephone: (713) 439-8041  
Email: dan.chapman@bakerhughes.com



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**Baker Hughes Incorporated**

3900 Essex Lane, Suite 1200  
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**J. Daniel Chapman**  
Legal Counsel

May 28, 2004

Via EMAIL

Sheila Quarterman  
Regulatory Policy Division  
Bureau of Industry and Security  
Department of Commerce  
P.O. Box 273  
Washington, D.C. 20044

Dear Ms. Quarterman:

**Comment -- Interim Revision of Export and Reexport Restrictions on Libya**

On behalf of Baker Hughes Incorporated, I would like to submit this comment letter on the Bureau of Industry and Security ("BIS") interim "Revision of Export and Reexport Restrictions on Libya," 69 Fed. Reg. 23,626 (April 29, 2004). My comments are limited to section 742.20(b)(ix), which creates a policy of denial for export / re-export license requests relating to items covered under Export Control Classification Number ("ECCN") 1C992 of the Export Administration Regulations' Commerce Control List.

Baker Atlas,<sup>1</sup> which is an operational division of Baker Hughes, is engaged in the manufacture of oil well perforators, which are classified as "commercial charges" under ECCN 1C992. Well perforators are critical to oil well development and production. Perforating devices typically consist of a string of shaped charges held in place by metal strip and ignited by primacord. After a well is drilled and then evaluated,

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<sup>1</sup> Formerly known as Western Atlas International, Inc.

steel pipe -- known as "casing" -- is inserted into the well bore and cemented in place. The casing essentially serves as a seal and prevents the flow of fluids into the wellbore. Using an oil well perforating device, casings are perforated in specific areas to allow hydrocarbons to flow into the wellbore. Properly placed perforations will prevent water from flowing into the wellbore and also prevent drawing hydrocarbons away from other zones that are being produced by other wells in the vicinity. In this manner, well production is limited to only the zone or zones intended. Such a process is critical to ensure an efficient and productive oil well. Oil producers in Libya require well perforators to maintain their wells and, in fact, have been acquiring and using perforators, manufactured by third-country producers, throughout the period of U.S. economic and trade sanctions against Libya. Baker Atlas would like to have the option to export and use its own perforating charges in its own future operations, if any, in Libya. Baker Atlas currently has no desire to export its own perforating charges to Libya for sale. Therefore, Baker Hughes requests that BIS not adopt a policy of denial for export / re-export license requests relating to perforating charges covered under ECCN IC992 and not foreclose the opportunity for Baker Hughes to make future license requests regarding perforating charges.

Baker Hughes believes that a policy of denying license requests for IC992 items would have little effect on preventing Libyan entities from accessing commercial charges. Commercial charges -- and oil well perforators, specifically -- are widely available from third countries. The Department of Commerce recognized this commodity-like nature of this product market in 1993, when it removed national security controls on commercial charges (then controlled under ECCN 1C18A). The Department reached that decision on the basis of its finding that commercial charges were "available . . . from foreign sources in quantities sufficient to render the [national security] controls ineffective in achieving their purpose."<sup>2</sup> Since the Department of Commerce's decision in 1993, commercial charges have become even more widely-available from third countries. A quick survey of a few Baker Atlas employees cited the following companies believed to be manufacturing perforating charges and the country in which this manufacturing is believed to occur.

<u>Company</u>	<u>Country of Export to Libya</u>
Atlas GIP	Romania
China Oil Service Limited	China
Daqing Oilfield	China
Dynamit Nobel	Various locations
ETA	Argentina
Geoinform Ltd.	Hungary
Schlumberger	Various locations
Sichuan Oilfield	China
VINIPVZRYVGEOPHYSICA	Russia

In fact, several de-commissioned nuclear facilities in Russia have been re-tooled to manufacture oil well perforators with the financing of the U.S. Department of Energy's

<sup>2</sup> "Foreign Availability Determination and General License GFW Eligibility for Certain Oil Well Perforators Controlled by ECCN 1C18A.o," 58 Fed. Reg. 61,806 (Department of Commerce, November 23, 1993).

Nuclear Cities Initiative.<sup>3</sup> Commercial charges manufactured by those companies are free to be sold to customers in Libya. Furthermore, the same quick survey of Baker Atlas employees also indicated that manufacturers in France, Germany and China may already be exporting perforating charges to Libya.

The commercial charges manufactured by foreign competitors are comparable to U.S.-manufactured charges in terms of functionality, technology, performance thresholds, and maintainability. Although perforating charges are essential and there is no substitute for their use in order to complete an oil well, they are a hazardous product. Each year, oil field workers are injured and killed when perforating charges prematurely ignite above ground, and oil wells are damaged when they prematurely ignite below ground. On the other hand, Baker Atlas has the testing, experience, and safety protocols to be confident in its own perforating charges and to know how they will work in combination with Baker Atlas's other tools and equipment. Because of these safety concerns, Baker Atlas strongly prefers to use perforating charges which it manufactures and for which it maintains strict quality controls and seeks to avoid the use of third party charges that increase the level of safety risk to the individuals providing these services.

As a practical matter, commercial charges categorized under ECCN 1C992 cannot be used for purposes other than their intended use, and they do not pose a significant risk of being used as munitions. The commercial charges manufactured by Baker Atlas are expensive and do not have a sufficient explosive capability to constitute a useful munitions item. Baker Atlas charges contain very small amounts of explosive material, which may vary between 3-48 grams (with an average of approximately 30 grams) depending on the size of the charge. Commercial charges also are highly tamper-resistant; the explosive materials in most commercial charges, including those produced by Baker Atlas, are bonded into the casing of the shell with a strong epoxy and cannot easily be removed without running the risk that the charge will detonate in the removal process. Moreover, in order to effectuate a controlled detonation of a commercial charge, an electrical charge is required -- simply throwing the charge, as one would a grenade, would not cause the charge to detonate. It is, in short, extremely unlikely that a terrorist or foreign government could misappropriate commercial charges for munitions purposes. Commercial charges are ill-suited for that purpose. To date, Baker Hughes is unaware of any instance where an oil well perforator has been misappropriated as a munitions item.

A number of measures, short of a policy of denial, are available to ensure that commercial charges shipped abroad are not used for improper purposes. In a case-by-case licensing framework, the Department of Commerce could review each application and ensure that the exports to Libya are destined for legitimate, actively-operating oil companies. Furthermore, Baker Hughes applies a number of important internal measures -- including material accountability measures and contractual requirements to ensure that products are not diverted to an improper end-use, or otherwise warehoused or disposed abroad. A general policy of denial would serve the purpose only of allowing non-U.S. producers -- who are not subject to U.S. regulatory jurisdiction or standards of material accountability -- to supply commercial charges to Libya. Such a measure clearly would

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<sup>3</sup> See <http://www.msa.doe.gov/na-20/nci/projects.shtml>

be inconsistent with the objective of ensuring that access to well perforators be limited only to legitimate Libyan oil-producing operations.

Finally, the denial policy for 1C992 items is inconsistent with the notion that U.S. companies should be actively involved in the Libyan energy sector. Baker Hughes believes there is a large market for energy services in Libya, which cannot be effectuated without the use of perforating charges. The only practical effect of a policy of denying 1C992 applications would be to prevent U.S. manufacturers of commercial charges from participating in the Libyan market.

Baker Hughes strongly urges BIS to reconsider its policy of denial on 1C992 products and to institute a case-by-case licensing framework that would allow U.S. producers to participate in the re-emerging Libya market.

Sincerely,



J. Daniel Chapman



## SHEILA QUARTERMAN - AeA Comments on Libya

---

**From:** AnnMarie Treglia <AnnMarie\_Treglia@aeanet.org>  
**To:** <sqarter@bis.doc.gov>  
**Date:** 6/1/2004 2:02 PM  
**Subject:** AeA Comments on Libya

---

Dear Ms. Quarterman:

Attached are AeA's comments in response to the April 29 Federal Register notice regarding Interim Regulation on Revision of Export and Reexport Restrictions on Libya.

(See attached file: AeA Libya FINAL comments June 04.pdf)

Sincerely,  
AnnMarie Treglia  
Director, International Trade Regulation  
AeA - Advancing the Business of Technology  
601 Pennsylvania Ave. NW  
North Building, Suite 600  
Washington, DC 20004  
T: 202-682-4433  
F: 202-682-9111  
annmarie\_treglia@aeanet.org  
www.aeanet.org



June 1, 2004

Ms. Sheila Quarterman,  
Regulatory Policy Division,  
Bureau of Industry and Security  
Department of Commerce  
14<sup>th</sup> and Pennsylvania Ave. NW,  
PO Box 273,  
Washington, DC 20044

RE: Docket No. 040422128-4128-01

Restrictions on Export and Reexport Restrictions on Libya

Dear Ms. Quarterman:

AeA, the largest U.S. high tech trade association, welcomes the opportunity to provide comments on the Interim Rule issued April 29, 2004, in the Federal Register dealing with the partial relaxation of the Libyan embargo.

AeA has long opposed unilateral U.S. export controls, especially in cases where equivalent products and technology are freely available from uncontrolled sources, as is the case with Libya. The embargo has represented an unnecessary impediment to AeA members' exports at a time when many countries including close U.S. allies and Wassenaar members have actively pursued business opportunities in that country.

While recognizing that the present Rule represents an important step forward, AeA urges that export controls on Libya be normalized as soon as possible. The retention of validated licensing requirements for AT-based controls retains a unilateral approach to controls, and maintains the delays, uncertainty and conditioning typical of a validated license review. Items subject to these controls continue to be available from Wassenaar countries and other sources and do not, by definition, represent a national security or proliferation risk. In addition, when entering the Libyan market U.S. companies are at a competitive disadvantage vis-à-vis their foreign competitors since they are required to obtain validated licenses for low-level items subject to AT-based controls.

AeA members would also like to raise the issue of the blanket prohibition on service, upgrade and use of items already in Libya, consistent with General Prohibition 10 of the EAR. Over the period of the embargo, it is inevitable that Libyan end-users acquired U.S.-origin equipment, systems, parts, or software from resellers around the world, particularly in the case of strategically useless or long decontrolled items. Some of these end-users may not have even been aware of the U.S. jurisdiction of the items they acquired, such as U.S.-origin software in computer systems produced outside the United States and carrying non-U.S. brand names. In other instances, end-users may have incorrectly assumed that non-U.S. equipment resellers had complied with the U.S. de minimis rules.

AeA feels that service, upgrade and use of low-level items should be permitted regardless of their origin, allowing export enforcement resources to be directed to items of strategic significance. This would remove the uncertainty associated with dealing with products where export authorization may be impossible to definitively prove. The precedent for this approach was set with certain exports to Eastern Europe after the collapse of the Soviet Bloc (see, for example, 55 FR 26652, June 29, 1990). The logic and importance of such a provision holds true today, and should be applied to Libya, Iraq and other countries where the basis for controls has fundamentally changed.

The above-mentioned objective can be achieved by providing an exemption to General Prohibition 10 for items controlled unilaterally by the United States for AT-reasons only. Those controlled specifically for national security or proliferation purposes would remain subject to the Prohibition.

We would again wish to extend our thanks to the Department for the opportunity to provide comments.

Sincerely,



AnnMarie Treglia  
Director, International Trade Regulation

## SHEILA QUARTERMAN - ICOTT Libya Comments

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**From:** "Hirschhorn, Eric" <EHirschhorn@winston.com>  
**To:** <sqarter@bis.doc.gov>  
**Date:** 6/1/2004 2:31 PM  
**Subject:** ICOTT Libya Comments  
**CC:** "Hirschhorn, Eric" <EHirschhorn@winston.com>, "Gerwin, Edward" <EGerwin@winston.com>, "Mario, Pastor" <PMario@winston.com>

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# **ICOTT INDUSTRY COALITION ON TECHNOLOGY TRANSFER**

1400 L Street, N.W., Washington, D.C. 20005 Suite 800 (202) 371-5994

June 1, 2004

Ms. Shiela Quarterman  
Regulatory Policy Division  
Bureau of Industry and Security  
U.S. Department of Commerce  
P.O. Box 273  
Washington, D.C. 20044

Re: Revision of Export and Reexport Restrictions on Libya — Interim Rule,  
69 Fed. Reg. 23626 (Apr. 29, 2004)

Dear Ms. Quarterman:

The Industry Coalition on Technology Transfer (“ICOTT”) is pleased to respond to the Department’s request for comments on its new export licensing policy for Libya, as set forth in the above-referenced interim rule (the “Interim Rule”).

ICOTT is heartened that recent diplomatic developments have enabled the Administration and the Department to begin the process of easing U.S. exports controls on Libya. We urge continued normalization of these controls on a prompt basis. While ICOTT supports the important steps taken in the Interim Rule to relax the embargo on Libya, we do not believe that the Interim Rule goes far enough with respect to certain unilateral U.S. controls. Additionally, to prevent widespread uncertainty and potential paralysis for U.S. exporters, the Department should adopt, on an expedited basis, a clear and reasonable policy with respect to the “installed base” of U.S.-origin items already in Libya. Finally, we offer a suggestion regarding licensing policy for software containing encryption features.

ICOTT urges the Department to eliminate the Interim Rule’s validated licensing requirements for U.S.-origin items unilaterally controlled for anti-terrorism (“AT”) reasons. Eliminating unilateral U.S. licensing requirements for AT-controlled items will help assure that the Department’s export control rules for Libya accurately reflect U.S. foreign policy. The Administration has repeatedly stated that the Libyan Government has taken and continues to take extraordinary and concrete steps to renounce terrorism and all its means. The Interim Rule and other foreign policy initiatives by the U.S. Government also appear to reflect a recognition by the United States of a decisive change in Libyan government policy. These pronouncements and efforts strike us as inconsistent with continuing unilateral anti-terrorism export controls on Libya and continuing to classify Libya with countries that have failed to undertake such important anti-terrorism initiatives. Eliminating unilateral AT controls on Libya would promote greater

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consistency with U.S. foreign policy as reflected in recent U.S. Government actions and announcements regarding Libya.

Eliminating validated licensing requirements for AT-controlled items exported to Libya is also justified on a number of other grounds. By definition, items subject to unilateral AT-based controls do not pose national security or chemical, biological, nuclear or missile technology proliferation risks. Moreover, unilateral U.S. validated licensing requirements for these items are unlikely to be effective because the items are currently available from a wide range of uncontrolled suppliers, including many suppliers in the Wassenaar countries. As ICOTT has repeatedly pointed out, from the standpoint of effectiveness, unilateral controls are like damming half a river. The builder may take pride in the majesty of the dam but there is every bit as much water downstream as before the first shovelful of earth was turned.

Unilateral validated licensing requirements for AT-controlled items will also place unnecessary competitive burdens on U.S. exporters. Requiring a validated license for these items will inevitably result in additional expense, paperwork, delay and uncertainty for U.S. exporters. These requirements will also place U.S. firms at a significant disadvantage in competing in Libya with suppliers from other countries — including many U.S. allies — that do not impose similar licensing requirements. The U.S. embargo on Libya has already given suppliers from many other countries a significant head start in competing for Libya's business. Retaining unnecessary unilateral licensing requirements for U.S. exports will only widen this competitive disadvantage.

The Department should also take prompt steps to address a serious deficiency in the Interim Rule — namely, its failure to establish clear and reasonable requirements for servicing, upgrading or otherwise dealing with the “installed base” of U.S.-origin items already in Libya. As experience with the former Warsaw Pact countries amply illustrates, U.S. suppliers and contractors entering or re-entering the Libyan market can expect to encounter a considerable installed base of U.S.-origin equipment, parts, components, systems and software, including items that were acquired while the U.S. embargo was in effect. These U.S.-origin items will include computers, telecommunications equipment and other equipment and systems and will likely encompass items that have been incorporated into power grids, oil and gas plants and other industrial facilities and infrastructure. U.S. suppliers and contractors will inevitably be requested to deal with these items and the systems into which they are incorporated. Such potential transactions could encompass repairs, upgrades, sales and transfers, financings, transport, disposal and a range of other dealings.

General Prohibition Ten of the EAR (§ 736.2(b)(10)) prohibits a broad range of commercial transactions if an actor has knowledge that a violation has occurred or is about to occur. The potential application of this broad prohibition to U.S.-origin items already in Libya

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has already created considerable confusion among U.S. exporters and contractors, particularly those who may be requested to repair, upgrade or otherwise deal with these items or the systems in which they are incorporated. Among other things, these firms are unclear about how to deal with U.S.-origin items for which it may be impossible to demonstrate the existence of a prior export authorization. Additionally, applying this prohibition to low-level items appears inconsistent with the overall easing of U.S. export controls on Libya. These uncertainties threaten to place U.S. firms at a further disadvantage in competing with foreign suppliers for Libya's business. If not addressed promptly, they also have the potential to paralyze a significant portion of U.S. export trade and commerce with Libya.

The Department should promptly address these problems and uncertainties by excluding low-level items already in Libya from the ambit of General Prohibition Ten. This exclusion should apply regardless of the manner in which the item entered Libya and should include all transactions, including repair, servicing and upgrades, that would otherwise be permitted under any License Exception applicable to Libya. ICOTT suggests that this exclusion substantially track language in former General License GDR, which addressed the similar issue of repairing or upgrading the installed base of U.S. equipment in the former East Germany during the period before Germany's reunification. *See* 55 Fed. Reg. 26652 (June 29, 1990). Specifically, ICOTT recommends that an exclusion for Libya might read as follows --

Notwithstanding General Prohibition Ten (§ 736.2(b)(10)), persons may undertake transactions, including repair, service and upgrade transactions, with respect an item already in Libya, regardless of the circumstances surrounding the original export, provided that the item and any additional items being exported are otherwise eligible for a License Exception applicable to Libya and that, at the conclusion of the transaction, the item would otherwise continue to be eligible for a License Exception applicable to Libya.

With respect to "installed base" items that would be ineligible for this exclusion and thus would require a license, ICOTT recommends that license applications be afforded "favorable consideration, regardless of the circumstances surrounding the original export."

ICOTT believes that these are appropriate and clear approaches to the "installed base" issue in Libya. They will eliminate a substantial number of potential problems in Libya for U.S. exporters and contractors and are consistent with past Department practice.

Finally, because many "retail" software products contain encryption functionality controlled under ECCN 5D002, such items presumably would be subject to the general denial

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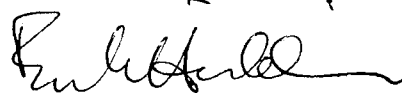
policy articulated in the new regulations. At least where such software is part of a broader information technology solution, if not in all cases, the presumption should be of approval.

\* \* \* \* \*

The easing of U.S. export controls on Libya will be an important facet of a new U.S. foreign policy toward that country. Recent visitors to Libya report that many Libyans still have a considerable reservoir of goodwill for the United States and its people. Much of this goodwill was a byproduct of the substantial commercial relations between the countries during the pre-embargo period. ICOTT's member associations and their many U.S. companies look forward to the opportunity to help foster improved relations with Libya as they pursue commerce and trade. To this end, we urge the Department to assure that its new export control requirements for Libya not create unnecessary burdens on trade with Libya or place U.S. exporters at a competitive disadvantage vis-à-vis suppliers from other countries. Revising the Interim Rule to eliminate validated licensing requirements for AT-controlled items and establishing clear and appropriate rules for the dealing with U.S.-origin items already in Libya are reasonable measures that will help advance U.S.-Libyan trade.

Founded in 1983, ICOTT is a group of major trade associations (names listed below) whose thousands of individual member firms export controlled goods and technology from the United States. ICOTT's principal purposes are to advise U.S. Government officials of industry concerns about export controls, and to inform ICOTT's member trade associations (and in turn their member firms) about the U.S. Government's export control activities.

Sincerely,



Eric L. Hirschhorn  
Executive Secretary

### ICOTT Members

American Association of Exporters and Importers (AAEI)  
Semiconductor Equipment and Materials International (SEMI)  
Semiconductor Industry Association (SIA)



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cc: Hon. Kenneth Juster  
Hon. John Bolton  
Hon. Peter Lichtenbaum  
Hon. Lincoln Bloomfield  
Hon. Condolezza Rice

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