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§ 746.1 INTRODUCTION

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part implements broad based controls for items and activities subject to the EAR imposed to implement U.S. government policies. Two categories of controls are included in this part.

(a) *Comprehensive controls*

This part contains or refers to all the BIS licensing requirements, licensing policies, and License Exceptions for countries subject to general embargoes or comprehensive sanctions, currently Cuba, Iran, and Syria. This part is the focal point for all the EAR requirements for transactions involving these countries.

(1) Cuba. All the items on the Commerce Control List (CCL) require a license to Cuba. In addition, most other items subject to the EAR, but not included on the CCL, designated by the Number “EAR99”, require a license to Cuba. Most items requiring a license to these

destinations are subject to a general policy of denial. Because these controls extend to virtually all exports, they do not appear in the Country Chart in part 738 of the EAR, nor are they reflected in the Commerce Control List in part 774 of the EAR.

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

(3) Syria. Pursuant to Sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108-175, codified as a note to 22 USC 2151) (the SAA), since May 14, 2004 BIS has maintained a prohibition on the export to Syria of all items on the Commerce Control List (in 15 CFR Part 774) (CCL) and a prohibition on the export to Syria of products of the United States, other than food and medicine. The President also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. Section 746.9 of this part sets forth the specific license requirements, licensing policy and license exceptions applicable to Syria as a sanctioned country under the EAR. These provisions were issued consistent with Executive Order 13338 of May 11, 2004 which implemented the SAA.

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

(1) BIS controls the export and reexport of selected categories of items to countries under United Nations Security Council arms embargoes. See the Commerce Control List in Supplement No. 1 to Part 774. See also §§ 746.3 (Iraq) and 746.4 (North Korea).

(2) The countries subject to United Nations Security Council arms embargoes are: Cote d'Ivoire (Ivory Coast), Democratic Republic of

the Congo, Eritrea, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, and Sudan.

(3) A license is required to export or reexport items identified in Part 774 as having a “UN” reason for control to countries identified in paragraph (b)(2) of this section. To the extent consistent with United States national security and foreign policy interests, BIS will not approve applications for such licenses if the authorization would be contrary to the relevant United Nations Security Council Resolution.

(4) You may not use any License Exception to export items subject to UN arms embargo controls to countries listed in 746.1(b)(2), except License Exception GOV § 740.11(b)(2)(i) and (ii).

(c) This part also contains descriptions of controls maintained by the Office of Foreign Assets Control in the Treasury Department and by the Directorate of Defense Trade Controls in the Department of State. Comprehensive embargoes and supplemental controls implemented by BIS under the EAR usually also involve controls on items and activities maintained by these agencies. This part sets forth the allocation of licensing responsibilities between BIS and these other agencies. References to the requirements of other agencies are informational; for current, complete, and authoritative requirements, you should consult the appropriate agency's regulations.

§ 746.2 CUBA

(a) *License requirements*

As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport all items subject to the EAR (see part 734 of the EAR for the scope of items subject to the EAR) to Cuba, except as follows.

(1) License Exceptions. You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the following License Exceptions. To determine the scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary exports and reexports (TMP) by the news media (see §740.9(a)(2)(viii) of the EAR).

(ii) Operation technology and software (TSU) for legally exported commodities or software (see §740.13(a) of the EAR).

(iii) Sales technology (TSU) (see §740.13(b) of the EAR).

(iv) Software updates (TSU) for legally exported software (see §740.13(c) of the EAR).

(v) Parts (RPL) for one-for-one replacement in certain legally exported commodities (see §740.10(a) of the EAR).

(vi) Baggage (BAG) (see §740.14 of the EAR).

(vii) Governments and international organizations (GOV) (see §740.11 of the EAR).

(viii) Gift parcels and humanitarian donations (GFT) (see §740.12 of the EAR).

(ix) Items in transit (TMP) from Canada through the U.S. (see §740.9(b)(1)(iv) of the EAR).

(x) Aircraft and vessels (AVS) for certain aircraft on temporary sojourn (see §740.15(a) of the EAR).

(xi) Permissive reexports of certain spare parts in foreign-made equipment (see §740.16(h) of the EAR).

(xii) Exports of agricultural commodities, classified as EAR99, under License Exception Agricultural Commodities (AGR) and certain reexports of U.S. origin agricultural commodities, classified as EAR99, under License Exception AGR (see §740.18 of the EAR).

(xiii) Commodities and software authorized under License Exception Consumer Communications Devices (CCD) (see § 740.19 of the EAR).

(2) [RESERVED]

(b) *Licensing policy*

Items requiring a license are subject to a general policy of denial, except as follows:

(1) Medicines and Medical Devices. Applications to export medicines and medical devices as defined in part 772 of the EAR will generally be approved, except:

(i) To the extent restrictions would be permitted under section 5(m) of the Export Administration Act of 1979, as amended (EAA), or section 203(b)(2) of the International Emergency Economic Powers Act;

(ii) If there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(iii) If there is a reasonable likelihood that the item to be exported will be reexported;

(iv) If the item to be exported could be used in the production of any biotechnological product; or

(v) If it is determined that the United States government is unable to verify, by on-site

inspection or other means, that the item to be exported will be used for the purpose for which it was intended and only for the use and benefit of the Cuban people, but this exception shall not apply to donations of medicines for humanitarian purposes to a nongovernmental organization in Cuba.

(2) Items may be authorized for export or reexport to Cuba on a case-by-case basis, provided the items are necessary to provide efficient and adequate telecommunications links between the United States and Cuba, including links established through third countries, and including the provision of satellite radio or satellite television services to Cuba.

(3) Exports from third countries to Cuba of non-strategic foreign-made products that contain an insubstantial proportion of U.S.-origin materials, parts, or components will generally be considered favorably on a case-by-case basis, provided all of the following conditions are satisfied:

(i) The local law requires, or policy favors, trade with Cuba;

(ii) The U.S.-origin content does not exceed 20 percent of the value of the product to be exported from the third country. Requests where the U.S.-origin parts, components, or materials represent more than 20 percent by value of the foreign-made product will generally be denied. See Supplement No. 2 to part 734 of the EAR for instructions on how to calculate value; and

(iii) You are not a U.S.-owned or -controlled entity in a third country as defined by OFAC regulations, 31 CFR part 515, or you are a U.S.-owned or controlled entity in a third country and one or more of the following situations applies:

(A) You have a contract for the proposed export that was entered into prior to October 23, 1992.

(B) Your transaction involves the export of foreign-produced medicines or medical devices incorporating U.S. origin parts, components or materials, in which case the application will be reviewed according to the provisions of paragraph (b)(1) of this section.

(C) Your transaction is for the export of foreign-produced telecommunications commodities incorporating U.S.-origin parts, components and materials, in which case the application will be reviewed under the licensing policy set forth in paragraph (b)(2) of this section.

(D) Your transaction is for the export of donated food to individuals or non-governmental organizations in Cuba and does not qualify as a humanitarian donation under License Exception GFT (§740.12 of the EAR) or License Exception AGR (§740.18 of the EAR).

(4) Applications for licenses may be approved, on a case-by-case basis, for certain exports to Cuba intended to provide support for the Cuban people, as follows:

(i) Applications for licenses for exports of certain commodities and software may be approved to human rights organizations, or to individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba when such exports do not give rise to U.S. national security or counter-terrorism concerns. Examples of such commodities include fax machines, copiers, computers, business/office software, document scanning equipment, printers, typewriters, and other office or office communications equipment. Applicants may donate or sell the commodities or software to be exported. Reexport to other end-users or end-uses is not authorized.

(ii) Commodities and software may be approved for export to U.S. news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. In

addition to the examples of commodities and software listed in paragraph (b)(4)(i) of this section, certain telecommunications equipment necessary for the operation of news organizations (e.g., 33M bit/s data signaling rate or less) may be approved for export to U.S. news bureaus.

(iii) Exports of agricultural items, which are outside the scope of agricultural commodities as defined in part 772 of the EAR, such as insecticides, pesticides and herbicides, as well as agricultural commodities not eligible for License Exception AGR, require a license and will be reviewed on a case-by-case basis.

(5) Applications for exports of aircraft or vessels on temporary sojourn to Cuba either to deliver humanitarian goods or services, or consistent with the foreign policy interests of the United States, will be considered on a case-by-case basis.

(c) Cuba has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(d) Definitions

For purposes of this section, “U.S. person” means any person subject to the jurisdiction of the United States, as described in §515.329 of the Cuban Assets Control Regulations (31 CFR 515.329).

(e) Related controls

OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever located, involving transactions with Cuba or any specially designated Cuban national, as provided in 31 CFR part 515. OFAC’s Terrorism List Government Sanctions Regulations in 31 CFR part 596 prohibit U.S. persons from engaging in a financial transaction with the government of a designated state sponsor of international

terrorism without OFAC authorization. The Department of State also implements sanctions on countries that are designated state sponsors of international terrorism. Exporters and reexporters should consult with those agencies for further guidance on these related controls.

§ 746.3 IRAQ

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

(a) License requirements

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

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

(3) A license is required for the export or reexport to Iraq or transfer within Iraq of items on the Commerce Control List controlled for RS reasons under the following ECCNs: 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992.

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

(i) **Military end-use.** In this section, the phrase “military end-use” means incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations) or the Wassenaar Arrangement Munitions List (WAML) (as set out on the Wassenaar

Arrangement website at <http://www.wassenaar.org>); or use, development, or deployment of military items described on the USML or the WAML.

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

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

(b) Licensing policy

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

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

(3) License applications for the export or reexport to Iraq or transfer within Iraq of items listed in paragraph (a)(3) of this section will be reviewed on a case-by-case basis to determine if they would contribute to the building of Iraqi

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

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

(c) License exceptions

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

(d) Related State Department Controls

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

(e) Transition for Licenses issued by the Department of the Treasury’s Office of Foreign Assets Control

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

(1) Validity period. Licenses issued by OFAC for the export or reexport of items that require a license to Iraq under the Export Administration Regulations (EAR) shall continue to be valid under the EAR. For those licenses with specified expiration dates, such dates will continue to apply. Licenses without specified expiration dates will be valid through July 30,

2005. The recordkeeping requirements applicable to exports and reexports of items pursuant to licenses issued by OFAC are described in paragraph (e)(3) of this section.

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

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

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

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

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

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

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

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

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

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

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

(f) License Requirements for certain transfers within Iraq of items subject to the EAR

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

(2) Other items.

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

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

§ 746.4 NORTH KOREA

(a) Licensing Requirements

As authorized by section 6 of the Export Administration Act of 1979, as amended, and consistent with United Nations Security Council Resolution 1718, a license is required to export or reexport any item subject to the EAR (see part 734 of the EAR) to the Democratic People's Republic of Korea (North Korea), except food and medicines classified as EAR99 (definitions in part 772 of the EAR). Portions of certain license exceptions, set forth in paragraph (c) of this section, may be available. Exporters should be aware that other provisions of the EAR, including parts 742 and 744, also apply to exports and reexports to North Korea.

(b) Licensing Policy

Items requiring a license are subject to case-by-case review, except as follows:

(1) Luxury Goods. Applications to export or reexport luxury goods, e.g., luxury automobiles; yachts; gems; jewelry; other fashion accessories; cosmetics; perfumes; furs; designer clothing; luxury watches; rugs and tapestries; electronic entertainment software and equipment; recreational sports equipment; tobacco; wine and other alcoholic beverages; musical instruments; art; and antiques and collectible items, including but not limited to rare coins and stamps are subject to a general policy of denial. For further information on luxury goods, see Supplement No. 1 to part 746.

(2) Applications to export or reexport arms and related materiel are subject to a general policy of denial. In addition, applications to export or reexport items specified by UN documents S/2006/814, S/2006/815 and S/2006/853 and other items that the UN Security Council or the Sanctions Committee established pursuant to UN Security Council Resolution 1718 has determined could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programs are also subject to a general policy of denial.

(3) Applications to export or reexport items controlled for NP and MT reasons (except ECCN 7A103 items) are subject to a general policy of denial.

(4) Applications to export or reexport humanitarian items (e.g., blankets, basic footwear, heating oil, and other items meeting subsistence needs) intended for the benefit of the North Korean people; items in support of United Nations humanitarian efforts; and agricultural commodities or medical devices items that are determined by BIS, in consultation with the interagency license review community, not to be luxury goods are subject to a general policy of approval.

(5) Other items on the CCL. See §742.19(b) of the EAR.

(c) License Exceptions

You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the license exception subsections specified in this paragraph. To determine scope and eligibility requirements, you will need to refer to the sections or specific paragraphs of part 740 (License Exceptions). Read each license exception carefully, as the provisions available for countries subject to sanctions are generally narrow.

(1) TMP for items for use by the news media as set forth in §740.9(a)(2)(viii) of the EAR.

(2) GOV for items for personal or official use by personnel and agencies of the U.S. Government, the International Atomic Energy Agency (IAEA), or the European Atomic Energy Community (Euratom) as set forth in §740.11(a), (b)(2)(i), and (b)(2)(ii) of the EAR.

(3) GFT, except that GFT is not available to export or reexport luxury goods as described in this section to North Korea.

(4) TSU for operation technology and software for lawfully exported commodities as set forth in §740.13(a) and sales technology as set forth in §740.13 (b) of the EAR.

(5) BAG for exports of items by individuals leaving the United States as personal baggage as set forth in §740.14(a) through (d) of the EAR.

(6) AVS for civil aircraft as set forth in §740.15(a)(4) of the EAR.

(d) The Secretary of State has designated North Korea as a country the government of which has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Section 742.19 of the EAR.

(e) OFAC maintains controls on certain transactions involving persons subject to U.S. jurisdiction and North Korean entities or any specially designated North Korean national.

§ 746.5 [RESERVED]

§ 746.6 [RESERVED]

§ 746.7 IRAN

The Treasury Department's Office of Foreign Assets Control (OFAC) administers a comprehensive trade and investment embargo against Iran. This embargo includes prohibitions on exports and certain reexport transactions involving Iran, including transactions dealing with items subject to the EAR. These prohibitions are set forth in OFAC's Iranian Transactions Regulations (31 CFR part 560). In addition, BIS maintains licensing requirements on exports and reexports to Iran under the EAR as described in paragraph (a)(1) of this section or elsewhere in the EAR (See, *e.g.*, § 742.8 – Anti-terrorism: Iran).

(a) *License requirements*

Department of Commerce

(1) **EAR license requirements.** A license is required under the EAR to export or reexport to Iran any item on the CCL containing a CB Column 1, CB Column 2, CB Column 3, NP Column 1, NP Column 2, NS Column 1, NS Column 2, MT Column 1, RS Column 1, RS Column 2, CC Column 1, CC Column 2, CC Column 3, AT Column 1 or AT Column 2 in the Country Chart Column of the License Requirements section of an ECCN or classified under ECCNs 0A980, 0A982, 0A983, 0A985, 0E982, 1C355, 1C395, 1C980, 1C981, 1C982, 1C983, 1C984, 2A994, 2D994, 2E994, 5A001.i, 5A980, 5D001 (for 5A001.i or for 5E001.a (for 5A001.i, or for 5D001.a (for 5A001.i))), 5D980, 5E001.a (for 5A001.i, or for 5D001.a (for 5A001.i)) or 5E980.

(2) **BIS authorization.** To avoid duplication, exporters or reexporters are not required to seek separate authorization from BIS for an export or reexport subject both to the EAR and to OFAC's Iranian Transactions Regulations. Therefore, if OFAC authorizes an export or reexport, such authorization is considered authorization for purposes of the EAR as well. Transactions that are not subject to OFAC regulatory authority may require BIS authorization.

(b) *Licensing Policy*

Applications for licenses for transactions for humanitarian reasons or for the safety of civil aviation and safe operation of U.S-origin aircraft will be considered on a case-by-case basis. Licenses for other purposes generally will be denied.

(c) *License Exceptions*

No license exceptions may be used for exports or reexports to Iran.

(d) *EAR Anti-terrorism controls*

The Secretary of State has designated Iran as a country that has repeatedly provided support for

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acts of international terrorism. Anti-terrorism license requirements and licensing policy regarding Iran are set forth in § 742.8 of the EAR.

(e) Prohibition on exporting or reexporting EAR items without required OFAC authorization

No person may export or reexport any item that is subject to the EAR if such transaction is prohibited by the Iranian Transactions Regulations (31 CFR part 560) and not authorized by OFAC. The prohibition of this paragraph (e) applies whether or not the EAR requires a license for the export or reexport.

§ 746.8 [RESERVED]

§ 746.9 SYRIA

Sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (Public Law 108-175, codified as a note to 22 USC 2151) (the SAA) require a prohibition on the export to Syria of all items on the Commerce Control List (in 15 CFR Part 774) (CCL) and a prohibition on the export to Syria of products of the United States, other than food and medicine. The President also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. The provisions in this section were issued consistent with Executive Order 13338 of May 11, 2004 which implemented the SAA.

(a) License requirements.

A license is required for the export or reexport to Syria of all items subject to the EAR, except food and medicine classified as EAR99 (food and medicine are defined in Part 772 of the EAR). A license is required for the “deemed export” and “deemed reexport,” as described in § 734.2(b) of the EAR, of any technology or source code on the Commerce Control List (CCL) to a Syrian foreign national. “Deemed exports” and

“deemed reexports” involving technology or source code subject to the EAR but not listed on the CCL do not require a license to Syrian foreign nationals.

(b) License Exceptions.

No License Exceptions to the license requirements set forth in paragraph (a) of this section are available for exports or reexports to Syria, except the following:

(1) TMP for items for use by the news media as set forth in §740.9(a)(2)(viii) of the EAR,

(2) GOV for items for personal or official use by personnel and agencies of the U.S. Government as set forth in §740.11(b)(2)(i) and (ii) of the EAR,

(3) TSU for operation technology and software, sales technology, and software updates pursuant to the terms of §740.13(a), (b), or (c) of the EAR,

(4) BAG for exports of personally-owned items by individuals leaving the United States as personal baggage pursuant to the terms of §740.14(a) through (d), only, of the EAR, and

(5) AVS for the temporary sojourn of civil aircraft reexported to Syria pursuant to the terms of §740.15(a)(4) of the EAR.

(c) Licensing policy.

(1) Except as described in this paragraph (c), all license applications for export or reexport to Syria are subject to a general policy of denial. License applications for “deemed exports” and “deemed reexports” of technology and source code will be reviewed on a case-by-case basis. BIS may consider, on a case-by-case basis, license applications for exports and reexports of items necessary to carry out the President’s constitutional authority to conduct U.S. foreign affairs and as Commander-in-Chief, including exports and reexports of items necessary for the performance of official functions by the United

States Government personnel abroad.

(2) BIS may also consider the following license applications on a case-by-case basis: items in support of activities, diplomatic or otherwise, of the United States Government (to the extent that regulation of such exportation or reexportation would not fall within the President's constitutional authority to conduct the nation's foreign affairs); medicine (on the CCL) and medical devices (both as defined in Part 772 of the EAR); parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft; aircraft chartered by the Syrian Government for the transport of Syrian Government officials on official Syrian Government business; telecommunications equipment and associated computers, software and technology; and items in support of United Nations operations in Syria. The total dollar value of each approved license for aircraft parts for flight safety normally will be limited to no more than \$2 million over the

24-month standard license term, except in the case of complete overhauls.

(3) In addition, consistent with Part 734 of the EAR, the following are not subject to the EAR and therefore not subject to this General Order: informational materials in the form of books and other media; publicly available software and technology; and technology exported in the form of a patent application or an amendment, modification, or supplement thereto or a division thereof (see 15 CFR 734.3(b)(1)(v), (b)(2) and (b)(3)).

***NOTE TO §746.9.** For administrative reasons, BIS continues to maintain provisions in General Order No. 2, Supplement No. 1 to Part 736 of the EAR relating to the President's waiver of certain prohibitions. This section contains all of the substantive controls against Syria, including the waiver-related provisions maintained in General Order No. 2.*

SUPPLEMENT NO. 1 TO PART 746 - EXAMPLES OF LUXURY GOODS

The following further amplifies the illustrative list of luxury goods set forth in §746.4(b)(1):

(a) Tobacco and tobacco products

(b) Luxury watches: wrist, pocket, and other with a case of precious metal or of metal clad with precious metal

(c) Apparel and fashion items, as follows:

(1) Leather articles

(2) Silk articles

(3) Fur skins and artificial furs

(4) Fashion accessories: leather travel goods, vanity cases, binocular and camera cases, handbags, wallets, designer fountain pens, silk scarves

(5) Cosmetics, including beauty and make-up

(6) Perfumes and toilet waters

(7) Designer clothing: leather apparel and clothing accessories

(d) Decorative items, as follows:

(1) Rugs and tapestries

(2) Tableware of porcelain or bone china

(3) Items of lead crystal

(4) Works of art (including paintings, original sculptures and statuary), antiques (more than 100 years old), and collectible items, including rare coins and stamps

(e) Jewelry: jewelry with pearls, gems, precious and semi-precious stones (including diamonds, sapphires, rubies, and emeralds),

jewelry of precious metal or of metal clad with precious metal

(f) Electronic items, as follows:

(1) Flat-screen, plasma, or LCD panel televisions or other video monitors or receivers (including high-definition televisions), and any television larger than 29 inches; DVD players

(2) Personal digital assistants (PDAs)

(3) Personal digital music players

(4) Computer laptops

(g) Transportation items, as follows:

(1) Yachts and other aquatic recreational vehicles (such as personal watercraft)

(2) Luxury automobiles (and motor vehicles): automobiles and other motor vehicles to transport people (other than public transport), including station wagons

(3) Racing cars, snowmobiles, and motorcycles

(4) Personal transportation devices (stand-up motorized scooters)

(h) Recreational items, as follows:

(1) Musical instruments

(2) Recreational sports equipment

(i) Alcoholic beverages: wine, beer, ales, and liquor

SUPPLEMENT NO. 2 TO PART 746 - [RESERVED]

SUPPLEMENT NO. 3 TO PART 746 - [RESERVED]