a warhead or weapon of destruction to a range of at least 25 kilometers, and those items that are designed or modified specifically for launching such missiles or rockets, if covered by systems identified in paragraphs (1) through (6) of this Supplement. For purposes of this rule, systems in this paragraph include remotely piloted vehicles with the characteristics for missiles as defined in this paragraph but do not include ground-to-air missiles;

(b) Man-Portable Air-Defense Systems (MANPADS); or

(c) Unmanned Aerial Vehicles (UAVs) of any type, including sensors for guidance and control of these systems, except model airplanes.

(8) Offensive Space Weapons: Systems or capabilities that can deny freedom of action in space for the United States and its allies or hinder the United States and its allies from denying an adversary the ability to take action in space. This includes systems such as anti-satellite missiles, or other systems designed to defeat or destroy assets in space.

(9) Command, Control, Communications, Computer, Intelligence, Surveillance, and Reconnaissance (C4ISR): Systems that support military commanders in the exercise of authority and direction over assigned forces across the range of military operations; collect, process, integrate, analyze, evaluate, or interpret information concerning foreign countries or areas; systematically observe aerospace, surface or subsurface areas, places, persons, or things by visual, aural, electronic, photographic, or other means; and obtain, by visual observation or other detection methods, information about the activities and resources of an enemy or potential enemy, or secure data concerning the meteorological, hydrographic, or geographic characteristics of a particular area, including Undersea communications. Also includes sensor technologies.

(10) Precision Guided Munitions (PGMs), including “smart bombs”: Weapons used in precision bombing missions such as specially designed weapons, or bombs fitted with kits to allow them to be guided to their target.

(11) Night vision equipment: Any electro-optical device that is used to detect visible and infrared energy and to provide an image. This includes night vision goggles, forward-looking infrared systems, thermal sights, and low-light level systems that are night vision devices, as well as infrared focal plane array detectors and cameras specifically designed, developed, modified or configured for military use; image intensification and other night sighting equipment or systems specifically designed, modified or configured for military use; second generation and above military image intensification tubes specifically designed, developed, modified or configured for military use, and infrared, visible and ultraviolet devices specifically designed, developed, modified, or configured for military application.


PART 743—SPECIAL REPORTING

Sec.
743.1 Wassenaar Arrangement.
743.2 High performance computers: Post shipment verification reporting.
743.3 Thermal imaging camera reporting.

SUPPLEMENT NO. 1 TO PART 743—WASSENAAR ARRANGEMENT PARTICIPATING STATES


SOURCE: 63 FR 2458, Jan. 15, 1998, unless otherwise noted.

§ 743.1 Wassenaar Arrangement.

(a) Scope. This section outlines special reporting requirements for exports of certain commodities, software and technology controlled under the Wassenaar Arrangement. Such reports must be submitted to BIS semiannually in accordance with the provisions of paragraph (f) of this section, and records of all exports subject to the reporting requirements of this section must be kept in accordance with part 762 of the EAR. This section does not require reports for reexports.

NOTE TO PARAGRAPH (a) OF THIS SECTION: For purposes of part 743, the term “you” has the same meaning as the term “exporter”, as defined in part 772 of the EAR.

(b) Requirements. You must submit two (2) copies of each report required under the provisions of this section and maintain accurate supporting records (see §762.2(b) of the EAR) for all exports of items specified in paragraph (c) of this section for the following:

(1) Exports authorized under License Exceptions GBS, CIV, TSR, LVS, APP, and the cooperating government portions (§§ 740.11(b)(2)(iii) and 740.11(b)(2)(iv) of the EAR) of GOV (see part 740 of the EAR). Note that exports of technology and source code under License Exception TSR to foreign nationals located in the U.S. should not be reported; and
(2) Exports authorized under the Special Comprehensive License procedure (see part 752 of the EAR).

(3) Exports authorized under the Validated End-User authorization (see §748.15 of the EAR).

(c) Items for which reports are required.

(1) You must submit reports to BIS under the provisions of this section only for exports of items controlled under the following ECCNs:

(i) Category 1: 1A002; 1C007.c and .d; 1C010.c and .d; 1D002 for “development” of 1A002; 1C007.c and .d; and 1C010.c and .d; 1E001 for “development” and “production” of 1A002, 1C007.c and .d, and 1C010.c and .d; 1E002.e and .f.

(ii) Category 2: 2D001 (certain items only; see Note to this paragraph), 2E001 (certain items only; see Note to this paragraph), and 2E002 (certain items only; see Note to this paragraph).

NOTE TO PARAGRAPH (c)(1)(ii): Reports for 2D001 are for “software”, other than that controlled by 2D002, specially designed for the “development” or “production” of the equipment in 2B001.a or .b (changing 6µm to 5.1µm in 2B001.a.1 and 2B001.b.1.a; and adding “a positioning accuracy with all compensations available” equal to or less (better) than 5.1µm along any linear axis” to the existing text for 2B001.b.2) of the Commerce Control List (CCL).

Reports for 2E001 are for “technology” according to the General Technology Note for “development” of “software” as described in this paragraph for 2D001, or for the equipment in 2B001.a or .b (changing 6µm to 5.1µm in 2B001.a.1 and 2B001.b.1.a; and adding “a positioning accuracy with all compensations available” equal to or less (better) than 5.1µm along any linear axis” to the existing text for 2B001.b.2) of the CCL.

Reports for 2E002 are for “technology” according to the General Technology Note for “production” of the equipment in 2B001.a or .b (changing 6µm to 5.1µm in 2B001.a.1 and 2B001.b.1.a; and adding “a positioning accuracy with all compensations available” equal to or less (better) than 5.1µm along any linear axis” to the existing text for 2B001.b.2) of the CCL.

(iii) Category 3: 3A002.g.1, 3B001.a.2, 3D001 for “development” or “production” of 3A002.g.1 or 3B001.a.2, and 3E001 for “development” or “production” of 3A002.g.1 or 3B001.a.2.

(iv) Category 4: 4A001.a.2; 4D001 (see paragraph (c)(2) of this section); and 4E001 (see paragraph (c)(2) of this section);

(v) Category 5: 5A001.b.3; 5B001.a (items specially designed for 5A001.b.3 and 5B001.a); 5D001.a (specially designed for the “development” or “production” of equipment, function, or features in 5B001.a) and 5D001.b (specially designed for the “development” or “production” of equipment, functions or features specified by 5A001.b.3 or “software” in 5D001.a or 5D001.b as described in this paragraph);

(vi) Category 6: 6A001.a.1 (changing 10 kHz to 5 kHz and adding the text “or a sound pressure level exceeding 224 dB (reference 1 µPa at 1 m) for equipment with an operating frequency in the band from 5 kHz to 10 kHz inclusive” to the existing text in 6A001.a.1.b), and 6A001.a.2.d; 6A002.a.1.a, 6A002.a.1.b, 6A002.a.2.a (changing 350 µA/Im to 700 µA/Im in 6A002.a.2.a.3.a), 6A002.a.3, 6A002.b, 6A002.c, 6A003.b.3 (incorporating 6A002.a.2.a having characteristics described in this paragraph), 6A003.e; 6A004.c; 6A005.a.1, 6A005.a.2, and 6A005.a.3 (having characteristics described in this paragraph), 6A006.c, 6A006.d, 6A006.e, 6A006.f, 6A006.g, 6A006.h, and 6A006.i; 6D001 (for equipment and software listed in this paragraph); and 6E002 (for equipment listed in this paragraph);

Notes to paragraph (c)(1)(vi):

NOTE 1: Reports for 6A002.a.3 exclude the following “focal plane arrays”:

a. Platinum Silicide having less than 10,000 elements;

b. Iridium Silicide;

c. Indium Antimonide or Lead Selenide having less than 256 elements;

d. Indium Arsenide;

e. Lead Sulphide;

f. Indium Gallium Arsenide;

g. Mercury Cadmium Telluride, as follows:

1. ‘Scanning Arrays’ having any of the following:

   a. 30 elements or less; or

   b. Incorporating time delay-and-integration within the element and having 2 elements or less;

2. ‘Staring Arrays’ less than 256 elements.
Technical Notes:  
'Scanning Arrays' are defined as "focal plane arrays" designed for use with a scanning optical system that images a scene in a sequential manner to produce an image.  
'Staring Arrays' are defined as "focal plane arrays" unfortunately designed for use with a non-scanning optical system that images a scene.  
h. Gallium Arsenide or Gallium Aluminum Arsenide quantum well having less than 256 elements; and  
i. Microbolometer having less than 8,000 elements.  
NOTE 2: Reports for 6A006.d, are for "compensation systems" for the following:  
a. Magnetic sensors controlled in 6A006.a.2 using optically pumped or nuclear precession (proton/Overhauser) "technology" that will permit these sensors to realize a 'sensitivity' lower (better) than 2 pT rms per square root Hz.  
. Underwater electric field sensors controlled in 6A006.b.  
c. Magnetic gradiometers controlled in 6A006.c that will permit these sensors to realize a 'sensitivity' lower (better) than 3 pT/m rms per square root Hz.  
(vii) Category 7: 7D002; 7D003.c, d.1 to d.4, and d.7; 7E001; and 7E002.  
(viii) Category 8: 8A001.c; 8A002.b (for 8A001.b, .c, .d), .h, .j, .o.3, and .p; 8D001 (for commodities listed in this paragraph); 8D002; 8E001 (for commodities listed in this paragraph); and 8E002.a; and  
(ix) Category 9: 9B001.b, 9D001 (for 9B001.b and 9E003 as described in this paragraph), 9D002 (for 9B001.b), 9D004.a, 9D004.c, 9E001 for technology controlled for NS reasons, 9E002, 9E003.a.2, a.3.b, a.3.c, a.4, a.5, a.8, and a.9.  
(2) Reports for "software" controlled by 4D001 (that is specially designed), and "technology" controlled by 4E001 (according to the General Technology Note in Supplement No. 2 to part 774 of the EAR) are required for the "development" or "production" of computers controlled under 4A001.a.2, or for the "development" or "production" of "digital computers" having an "Adjusted Peak Performance" ("APP") exceeding 0.1 Weighted TeraFLOPS (WT). For the calculation of APP, see the Technical Note for Category 4 in the Commerce Control List (Supplement No. 2 to part 774 of the EAR).  
(d) Country Exceptions. You must report each export subject to the provisions of this section, except for exports to Wassenaar member countries, as identified in Supplement No. 1 to part 743.  
(e) Information that must be included in each report. (1) Each report submitted to BIS for items other than those identified in paragraph (e)(2) of this section must include the following information for each export during the time periods specified in paragraph (f) of this section:  
(i) Export Control Classification Number and paragraph reference as identified on the Commerce Control List;  
(ii) Number of units in the shipment; and  
NOTE TO PARAGRAPH (e)(1)(ii): For exports of technology for which reports are required under §743.1(c) of this section, the number of units in the shipment should be reported as one (1) for the initial export of the technology to a single ultimate consignee. Additional exports of the technology must be reported only when the type or scope of technology changes or exports are made to other ultimate consignees. Additionally, do not report the release of technology or source code subject to the EAR to foreign nationals in the U.S.  
(iii) Country of ultimate destination.  
(2) [Reserved]  
(f) Frequency and timing of reports. You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company’s name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six month time periods spanning from January 1 through June 30 and July 1 through December 31.  
(1) The first report must be submitted to and received by BIS no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. Thereafter, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.  
(2) Reports for the reporting period ending June 30 must be submitted to and received by BIS no later than August 1.  
(3) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.
§ 743.3 Thermal imaging camera reporting.

(a) General requirement. Exports of thermal imaging cameras must be reported to BIS as provided in this section.

(b) Transactions to be reported. Exports that are not authorized by an individually validated license of thermal imaging cameras controlled by ECCN 6A003.b.4.b to Albania, Australia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, or the United Kingdom must be reported to BIS.