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SUPPLEMENT NO. 1 TO PART 736—GENERAL ORDERS

General Order No. 1 of September 16, 1998; Establishing a 24-month validity period on reexport authorizations issued without a validity period and revoking those exceeding that period.

(a) Reexport authorizations issued within 24-month period preceding September 16, 1998 shall be deemed to have an expiration date which shall be the date 24-months from the date of issuance of the reexport authorization or November 16, 1998, whichever is longer.

(b) Reexport authorizations issued before the 24-month period preceding the General Order. For reexport authorizations issued without a validity period before the 24-month period preceding September 16, 1998:

(1) Effective September 16, 1998, all such outstanding reexport authorizations for terrorist-supporting countries (see parts 742 and 746 of the EAR) are revoked.

(2) Effective November 16, 1998, all other such outstanding reexport authorizations are revoked.

(c) Extensions. If necessary, you may request extensions of such authorizations according to procedures set forth in §750.7(g) of the EAR.

(d) Specific Notice from BIS. If you have received, or should you receive, specific notice from BIS with regard to a reexport authorization covered by this General Order, informing you of a revocation, suspension, or revision (including validity period) of any such reexport authorization, then the terms of that specific notice will be controlling.

(e) Definition of “authorization.” The term “authorization” as used in this General Order encompasses the range of reexport authorizations granted by BIS, which includes licenses, individual letters, and other types of notifications.

General Order No. 2 of May 14, 2004; sections 5(a)(1) and 5(a)(2)(A) of the Syria Accountability and Lebanese Sovereignty Act of 2003 (Public Law 108–175, codified as a note to 22 U.S.C. 2151) (the SAA), require (1) a prohibition on the export to Syria of all items on the Commerce Control List (in 15 CFR part 740, CCL) and (2) a prohibition on the export to Syria of products of the United States, other than food and medicine. The President has also exercised national security waiver authority pursuant to Section 5(b) of the SAA for certain transactions. This Order is issued consistent with Executive Order 13338 of May 11, 2004, which implements the SAA.

Existing Licenses. Effective May 14, 2004, all License Exceptions to the license requirements set forth in paragraph (a) of this General Order 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)(ii) 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 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)(3)(D) of the EAR.

Licensing policy. 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 those exports and reexports of items necessary for the performance of official functions by the United States Government personnel abroad. BIS may also consider the following license applications on a case-by-case basis:

(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)(ii) 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 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)(3)(D) of the EAR.
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 722 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. In addition, consistent with part 734 of the EAR, the following are 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)).

(e) Savings Clause. Items that are on dock for loading, on lighter, laden aboard an exporting carrier or en route aboard a carrier to a port of export on May 14, 2004, shall be subject to the licensing rules applicable to such items as of May 13, 2004. Any such items not actually exported or reexported before midnight May 28, 2004, may be exported or reexported only if authorized pursuant to this General Order.

General Order No. 3 [Reserved]

General Order No. 4 of June 13, 2008, as amended on September 3, 2009, amending existing licenses for exports of consolidated gift parcels to Cuba due to changes in License Exception GFT.

(a) Section 740.12(a) of the EAR authorizes, among other things, certain exports of gift parcels to Cuba pursuant to a license exception. However, consolidated shipments of multiple gift parcels to Cuba require a license even if all of the individual items within the consolidated gift parcel would be eligible for this license exception if shipped alone.

(b) Notwithstanding any statements to the contrary on the license itself, licenses authorizing the export to Cuba of consolidated gift parcels described in paragraph (a) of this order that are valid on September 3, 2008 authorize the export of consolidated shipments to Cuba of gift parcels that comply with the requirements of License Exception GFT found in §740.12(a) of the EAR as of September 3, 2008.

(c) This General Order does not change any of the other terms (including total value of items that may be exported or expiration date) of the licenses it affects.


SUPPLEMENT NO. 2 TO PART 736—
ADMINISTRATIVE ORDERS

Administrative Order One: Disclosure of License Issuance and Other Information. Consistent with section 12(c) of the Export Administration Act of 1979, as amended, information obtained by the U.S. Department of Commerce for the purpose of consideration of or concerning license applications, as well as related information, will not be publicly disclosed without the approval of the Secretary of Commerce. Shipper’s Export Declarations also are exempt from public disclosure, except with the approval of the Secretary of Commerce, in accordance with §301(g) of Title 13, United States Code.

Administrative Order Two: Conduct of Business and Practice in Connection with Export Control Matters.

(a) Exclusion of persons guilty of unethic conduct or not possessing required integrity and ethical standards.

(i) Who may be excluded. Any person, whether acting on his own behalf or on behalf of another, who shall be found guilty of engaging in any unethic activity or who shall be demonstrated not to possess the required integrity and ethical standards, may be excluded from (denied) export privileges on his own behalf, or may be excluded from practice before BIS on behalf of another, in connection with any export control matter, or both, as provided in part 764 of the EAR.

(ii) Grounds for exclusion. Among the grounds for exclusion are the following:

(1) Inducing or attempting to induce by gifts, promises, bribes, or otherwise, any officer or employee of BIS or any customs or post office official, to take any action with respect to the issuance of licenses or any other aspects of the administration of the Export Administration Act, whether or not in violation of any regulation;

(ii) Offering or making gifts or promises thereof to any such officer or employee for any other reason;

(iii) Soliciting by advertisement or otherwise the handling of business before BIS on the representation, express or implied, that such person, through personal acquaintance or otherwise, possesses special influence over any officer or employee of BIS;