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(c) Licensing policy. Applications for licenses for the export, reexport, or transfer to a person identified in paragraph (a) of this section of any item subject to the EAR (except for agricultural commodities, medicine, or medical devices, classified as EAR99 and destined for entities whose property and interests in property are blocked pursuant to Executive Orders 13310, 13448 or 13464) will generally be denied. You should consult with OFAC concerning transactions subject to OFAC licensing requirements.

(d) Contract sanctity. Contract sanctity provisions are not available for license applications reviewed under this section, except as available under 31 CFR 370.210(c).

[74 FR 771, Jan. 8, 2009]

SUPPLEMENT NO. 1 TO PART 744—MILITARY END-USE EXAMPLES FOR §744.17

(a) Examples of military end-uses (as described in §744.17(d) of this part) of general-purpose microprocessors classified as ECCN 3A991.a.1 includes employing such microprocessors in the “use”, “development”, “production”, or deployment of:

1. Cruise missiles;
2. Electronic suites of military aircraft and helicopters;
3. Radar for searching, targeting, or tracking systems;
4. Command/control/communications or navigation systems;
5. Unmanned aerial vehicles capable of performing military reconnaissance, surveillance, or combat support;
6. Rocket or missile systems;
7. Electronic or information warfare systems;
or
8. Intelligence, reconnaissance, or surveillance systems suitable for supporting military operations.

(b) [Reserved]


SUPPLEMENT NO. 2 TO PART 744—LIST OF ITEMS SUBJECT TO THE MILITARY END-USE LICENSE REQUIREMENT OF §744.21

The following items, as described, are subject to the military end-use license requirement in §744.21.

(1) Category 1—Materials, Chemicals, Microorganisms, and Toxins
(1) 1A290 Depleted uranium (any uranium containing less than 0.711% of the isotope U-235) in shipments of more than 1,000 kilograms in the form of shielding contained in X-ray units, radiographic exposure or teletherapy devices, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials.

(2) Category 2—Materials Processing

(i) 2A991 Limited to bearings and bearing systems not controlled by 2A001 and with operating temperatures above 573K (300 °C).

(2) 2B991 Limited to “numerically-controlled” machine tools having “positioning accuracies”, with all compensations available, less (better) than 9µ along any linear axis, and machine tools controlled under 2B991.d.1.a.

(ii) 2B992 Non “numerically controlled” machine tools for generating optical quality surfaces, and specially designed components therefor.

(3) 2B996 Limited to dimensional inspection or measuring systems or equipment not controlled by 2B990 with measurement uncertainty equal to or less (better) than (1.7 + L/1000) micrometers in any axes (L measured Length in mm).

(3) Category 3—Electronics Design, Development and Production

(i) 3A292.d Limited to digital oscilloscopes and transient recorders, using analog-to-digital conversion techniques, capable of storing transients by sequentially sampling single-shot inputs at greater than 2.5 gigasamples per second.

(ii) 3A999.c All flash x-ray machines, and components of pulsed power systems designed thereof, including Marx generators, high power pulse shaping networks, high voltage capacitors, and triggers.
(ii) 3E292 Limited to “technology” according to the General Technology Note for the “development”, “production”, or “use” of digital oscilloscopes and transient recorders with sampling rates greater than 2.5 giga-samples per second, which are controlled by 3A292.d.

(4) Category 4—Computers

(i) 4A994 Limited to computers not controlled by 4A001 or 4A002, with an Adjusted Peak Performance (“APP”) exceeding 0.5 Weighted TeraFLOPS (WT).

(ii) 4D993 “Program” proof and validation “software”, “software” allowing the automatic generation of “source codes”, and operating system “software” that are specially designed for real time processing equipment.

(iii) 4D994 Limited to “software” specially designed or modified for the “development”, “production”, or “use” of equipment controlled by 4A101.

(5) Category 5—(Part 1) Telecommunications

(i) 5A991 Limited to telecommunications equipment designed to operate outside the temperature range from 219K (-54 °C) to 397K (124 °C), which is controlled by 5A991.a., radio equipment using Quadrature-amplitude-modulation (QAM) techniques, which is controlled by 5A991.b.7., and phased array antennas, operating above 10.5 Gz, except landing systems meeting ICAO standards (MLS), which are controlled by 5A991.f.

(ii) 5D991 Limited to “software” specially designed or modified for the “development”, “production”, or “use” of equipment controlled by 5A991.a., 5A991.b.7., and 5A991.f., or of “software” specially designed or modified for the “development”, “production”, or “use” of equipment controlled by 5A991.a., 5A991.b.7., and 5A991.f.

(iii) 5E993 Limited to “technology” for the “development”, “production” or “use” of equipment controlled by 5A991.a., 5A991.b.7., or 5A991.f., or of “software” specially designed or modified for the “development”, “production”, or “use” of equipment controlled by 5A991.a., 5A991.b.7., and 5A991.f.

(6) Category 6—Sensors and Lasers

(i) 6A995 “Lasers”, not controlled by 6A005 or 6A205.

(ii) 6C992 Optical sensing fibers not controlled by 6A022.d.3 which are modified structurally to have a “beat length” of less than 500 mm (high birefringence) or optical sensor materials not described in 6C992.b and having a zinc content of equal to or more than 6% by “mole fraction.”

(iii) 6A993 Cameras, not controlled by 6A003 or 6A203 as follows (see List of Items Controlled).

(7) Category 7—Navigation and Avionics

(i) 7A994 Other navigation direction finding equipment, airborne communication equipment, all aircraft inertial navigation systems not controlled under 7A003 or 7A103, and other avionic equipment, including parts and components, n.e.s.

(ii) 7B994 Other equipment for the test, inspection, or “production” of navigation and avionics equipment.

(iii) 7D994 “Software”, n.e.s., for the “development”, “production”, or “use” of navigation, airborne communication and other avionics.

(iv) 7E994 “Technology”, n.e.s., for the “development”, “production”, or “use” of navigation, airborne communication, and other avionics equipment.

(8) Category 8—Marine

(i) 8A992 Limited to underwater systems or equipment, not controlled by 8A001, 8A002, or 8A018, and specially designed parts therefor.

(ii) 8D992 “Software” specially designed or modified for the “development”, “production” or “use” of equipment controlled by 8A992.

(9) Category 9—Propulsion Systems, Space Vehicles and Related Equipment

(i) 9A991 Limited to “aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101.

(ii) 9D991 “Software”, for the “development” or “production” of equipment controlled by 9A991 or 9B991.

(iii) 9E991 “Technology”, for the “development”, “production” or “use” of equipment controlled by 9A991 or 9B991.


SUPPLEMENT NO. 3 TO PART 744—Countries Not Subject to Certain Nuclear End-Use Restrictions in §744.2(a)

Australia
Austria
Belgium
Canada
Denmark
Finland
France
Germany
Greece
Iceland
Ireland
Italy (includes San Marino and Holy See)
Japan
Luxembourg
Netherlands
New Zealand
Norway
Portugal
Spain
Sweden
Turkey
United Kingdom