

§ 740.20

15 CFR Ch. VII (1–12 Edition)

(i) *Ineligible Cuban Government Officials.* Ministers and vice-ministers; members of the Council of State; members of the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; or members and employees of the Supreme Court (Tribuno Supremo Nacional).

(ii) *Ineligible Cuban Communist Party Officials.* Members of the Politburo; the Central Committee; Department Heads of the Central Committee; employees of the Central Committee; and the secretaries and first secretaries of provincial Party central committees.

[74 FR 45989, Sept. 8, 2009]

§ 740.20 License Exception Strategic Trade Authorization (STA).

(a) *Introduction.* This section authorizes exports, reexports and in country transfers, including releases within a single country of software source code and technology to foreign nationals in lieu of a license that would otherwise be required pursuant to part 742 of the EAR.

(b) *Requirements and Limitations—(1) Requirements for Using License Exception STA.* (i) All of the reasons for control that impose a part 742 license requirement on the *export, reexport or in country transfer* must be addressed in at least one authorizing paragraph of this section.

(ii) The party using License Exception STA must comply with all of the requirements in paragraph (d) of this section.

(2) *Limitations on Use of License Exception STA.* The prohibitions and limits of this paragraph (b)(2) apply notwithstanding the authorizations in paragraph (c) of this section.

(i) License Exception STA may not be used in lieu of any license requirement imposed by “Part 744—Control Policy: End User and End Use Based” or by “Part 746—Embargoes and Other Special Controls” of the EAR.

(ii) License Exception STA may not be used for any item controlled under ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982.

(iii) License Exception STA may not be used for any item that is controlled for reason of encryption items (EI), short supply (SS), surreptitious listening (SL), missile technology (MT) or chemical weapons (CW).

(iv) License Exception STA may not be used for any item identified on the CCL as being subject to the exclusive export control jurisdiction of another agency, such as the Department of State, the Department of Energy, or the Nuclear Regulatory Commission.

(v) License Exception STA may not be used for any item controlled by ECCN 1C351.a, .b, .c, .d.11, .d.12 or .e, ECCNs 1C352, 1C353, 1C354, 1C360, 1E001 (*i.e.*, for technology, as specified in ECCN 1E001, for items controlled by ECCN 1C351.a, .b, .c, .d.11, .d.12 or .e or ECCNs 1C352, 1C353, 1C354 or 1C360) or ECCN 1E351.

(vi) Toxins controlled by ECCN 1C351.d.1 through 1C351.d.10 and 1C351.d.13 through 1C351.d.19 are authorized under License Exception STA to destinations indicated in paragraph (c)(1) of this section, subject to the following limits. For purposes of this paragraph, all such toxins that are sent from one exporter, reexporter or transferor to a single end-user, on the same day, constitute one shipment.

(A) The maximum amount of any one toxin in any one shipment may not exceed 100 milligrams.

(B) No exporter, reexporter or transferor may send more than six shipments of any one toxin to any one end user in a single calendar year.

(vii) Commerce Control List Category 9 limitations on use of License Exception STA.

(A) License Exception STA may not be used for 9D001 or 9D002 “software” that is specially designed or modified for the “development” or “production” of:

(1) Components of engines controlled by ECCN 9A001 if such components incorporate any of the “technologies” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines), 9E003.h; or

(2) Equipment controlled by 9B001.

(B) License Exception STA may not be used for 9D001 “software” that is specially designed or modified for the “development” of “technology” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h.

(C) License Exception STA may not be used for 9D004.f or 9D004.g “software”.

(D) License Exception STA may not be used for 9E001 “technology” according to the General Technology Note for the “development” of 9A001.b engines or components of engines controlled by 9A001.b if such components incorporate:

(1) Any of the “technologies” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) or 9E003.h;

(2) Any of the 9D001 or 9D002 software in paragraphs (b)(2)(viii)(A) or (B) of this section.

(E) License Exception STA may not be used for 9E002 “technology” according to the General Technology Note for the “production” of components of engines controlled by 9A001.b if such components incorporate any of the “technologies” controlled by 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) 9E003.h.

(F) License Exception STA may not be used for “technology” in 9E003.a.1, 9E003.a.2, 9E003.a.3, 9E003.a.4, 9E003.a.5, 9E003.c, 9E003.i (other than technology for fan or power turbines) 9E003.h.

(c) *Authorizing paragraphs*—(1) *Multiple reasons for control*. Exports, reexports, and in country transfers in which the only applicable reason(s) for control is (are) national security (NS); chemical or biological weapons (CB); nuclear nonproliferation (NP); regional stability (RS); crime control (CC), and/or significant items (SI) are authorized for destinations in or nationals of Ar-

gentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, or the United Kingdom.

(2) *Controls of lesser sensitivity*. Exports, reexports and in country transfers in which the only applicable reason for control is national security (NS) and the *item* being exported, reexported or transferred (in country) is not designated in the STA paragraph in the License Exception section of the ECCN that lists the item are authorized for destinations in or nationals of Albania, Hong Kong, India, Israel, Malta, Singapore, South Africa, or Taiwan.

(d) *Conditions*—(1) *Requirement to furnish Export Control Classification Number*. (i) The exporter must furnish to the consignee the ECCN of each item to be shipped pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same exporter makes an additional shipment of the same item, if the information remains accurate at the time of the additional shipment.

(ii) A reexporter or transferor must furnish to subsequent consignees the ECCN, provided by the exporter or a prior reexporter or transferor, of each item to be shipped pursuant to this section. Once furnished to a particular consignee, the ECCN that applies to any item need not be refurnished to that consignee at the time the same reexporter or transferor makes an additional shipment of the same item, if the information remains accurate at the time of the additional shipment.

(iii) For purposes of determining re-export or transfer eligibility under this section, the consignee may rely on the ECCN provided to it by the party required to furnish the ECCN under paragraph (d)(1)(i) or (ii) of this section unless the consignee knows that the ECCN is incorrect or has changed. The word “knows” has the same meaning as the term “knowledge” in § 772.1 of the EAR.

(2) *Prior Consignee Statement.* The exporter, reexporter and transferor must obtain the following statement in writing from its consignee prior to shipping the item and must retain the statement in accordance with part 762 of the EAR. One statement may be used for multiple shipments of the same items between the same parties so long as the party names, the description(s) of the item(s) and the ECCNs are correct. The exporter, reexporter, and transferor must maintain a log or other record that identifies each shipment made pursuant to this section and the specific consignee statement that is associated with each shipment.

[INSERT NAME OF CONSIGNEE]:

(i) Is aware that [INSERT DESCRIPTION AND APPLICABLE ECCNS OF ITEMS TO BE SHIPPED] will be shipped pursuant to License Exception Strategic Trade Authorization (STA) in §740.20 of the United States Export Administration Regulations (15 CFR 740.20);

(ii) Has been informed of the ECCNs noted above by [INSERT NAME OF EXPORTER, REEXPORTER OR TRANSFEROR];

(iii) Understands that items shipped pursuant to License Exception STA may not subsequently be reexported pursuant to paragraphs (a) or (b) of License Exception APR (15 CFR 740.16(a) or (b));

(iv) Agrees not to export, reexport or transfer these items to any destination, use or user prohibited by the United States Export Administration Regulations; and

(v) Agrees to provide copies of this document and all other export, reexport or transfer records (*i.e.*, the documents described in 15 CFR part 762) relevant to the items referenced in this statement to the U.S. Government as set forth in 15 CFR 762.7.

(3) *Notification to consignee of STA shipment.* With each shipment under License Exception STA, the exporter (or reexporter or transferor as applicable), must notify the consignee in writing that the shipment is made pursuant to License Exception STA. The notice must either specify which items are subject to License Exception STA or state that the entire shipment is made pursuant to License Exception STA.

The notice must clearly identify the shipment to which it applies. The written notice may be conveyed by paper documents or by electronic methods such as facsimile or email.

(4) *Requirements for releases of software source code or technology within a single country.* Instead of the requirement of paragraphs (d)(1) through (d)(3) of this section, the party releasing software source code or technology to a national of a country listed in paragraph (c)(1) or (c)(2) of this section must notify the recipient of the software source code or technology of the restrictions upon further release of the software source code or technology. The notification must either expressly inform the recipient that the EAR impose limits on further disclosure or must be in the form of an agreement in which the recipient agrees to limits on further disclosure. Any such agreement must impose limits that are equivalent to or more restrictive than all limits on further disclosure that are imposed by the EAR. The notification must be in writing and a copy of it must be retained by the party making the release and the recipient of the release. The notification may be in a separate document or included in a document such as a contract or a nondisclosure agreement. If the document has an expiration date, it must provide that the restrictions on disclosure do not expire.

(e) *Limitation on subsequent exports, reexports or in country transfers.* If a commodity has been exported, reexported or transferred in-country pursuant to this section, it may not be subsequently exported, reexported or transferred in-country pursuant to paragraphs (a) or (b) of License Exception APR (§740.16(a) or (b) of the EAR). Paragraphs (a) and (b) of License Exception APR do not authorize exports of software or technology.

(f) *Applicability of Wassenaar Arrangement reporting requirements.* See §743.1 of the EAR for special reporting requirements that apply to some exports made pursuant to this section.

[76 FR 35287, June 16, 2011, as amended at 76 FR 56101, Sept. 12, 2011]