(ii) Country scope. This General Prohibition Eight applies to Armenia, Azerbaijan, Belarus, Cambodia, Cuba, Georgia, Kazakhstan, Kyrgyzstan, Laos, Mongolia, North Korea, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, Vietnam.

(9) General Prohibition Nine—Violation of any order, terms, and conditions (Orders, Terms, and Conditions). You may not violate terms or conditions of a license or of a License Exception issued under or made a part of the EAR, and you may not violate any order issued under or made a part of the EAR. There are no License Exceptions to this General Prohibition Nine in part 740 of the EAR. Supplements Nos. 1 and 2 to this part provide for certain General Orders and Administrative Orders.

(10) General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR.

[61 FR 12754, Mar. 25, 1996]

EDITORIAL NOTE: For Federal Register citations affecting §736.2, see the List of CFR Sections Affected, which appears in the Finding Aids volume of the printed volume and at www.fdsys.gov.

SUPPLEMENT NO. 1 TO PART 736—GENERAL ORDER

(a) General Order No. 1:

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.

(1) Reexport authorizations issued within 24-months of the General Order. All reexport authorizations issued with no validity period within the 24-months 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.

(2) Reexport authorizations issued before the 24-month period preceding the General Order. For reexport authorizations issued with no validity period before the 24-month period preceding September 16, 1998:

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

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

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

(4) 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.

(5) 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.

(b) General Order No. 2:

General Order No. 2; section 5(b) of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 (SAA) gives the President authority to waive the application of certain prohibitions set forth in the SAA if the President determines that it is in the national security interest of the United States to do so. The President made such a determination in Executive Order 13338, finding that it was “in the national security interest of the United States to waive application of subsection 5(a)(1) and 5(a)(2)(A) of the SAA so as to permit the exportation or reexportation of certain items as specified in the Department of Commerce’s General Order No. 2.” The President’s reference to General Order No. 2 addresses applications to export and reexport the following items, which are considered on a case-by-case basis as opposed to the general policy of denial set forth in section 740.9 of the Regulations: 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 char-tered by the Syrian Government for the transport of Syrian Government officials on official Syrian Government business; telecommunications equipment and associated computers, software and technology; items in support of United Nations operations in Syria; and items necessary for the support of the Syrian people, including, but not limited to, items related to water supply and sanitation, agricultural production and food processing, power generation, oil and gas production, construction and engineering, transportation, and educational infrastructure. 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.

NOTE TO GENERAL ORDER NO. 2: The controls for exports and reexports to Syria are set forth in §746.9 of the EAR.

(c) General Order No. 3 [Reserved]

(d) General Order No. 4: 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.

(1) 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.

(2) 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, 2009 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, 2009.

(3) 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.

(c) General Order No. 5: General Order No. 5 of April 16, 2013: Authorization for Items the President Determines No Longer Warrant Control under the United States Munitions List (USML).

(a) Continued use of DDTC approvals from the Department of State’s Directorate of Defense Trade Controls (DDTC) for items that become subject to the EAR. Items the President has determined no longer warrant control under the USML will become subject to the EAR as published final rules that transfer the items to the CCL become effective. DDTC licenses, agreements, or other limitations without a license issued by DDTC authorization); parts and components transitioning from the USML to the CCL and that are issued prior to the effective date of the final rule transferring such items to the CCL may continue to be used in accordance with the Department of State’s final rule, Amendments to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform, published on April 16, 2013 in the Federal Register.

(b) BIS authorization.

(1) Where continued use of DDTC authorization is not or is no longer an available option, or a holder of an existing DDTC authorization returns or terminates that authorization, any required authorization to export, reexport, or transfer (in-country) a transitioned item on or after the effective date of the applicable final rule must be obtained under the EAR. Following the publication of the date and prior to the effective date of a final rule moving an item from the USML to the CCL, applicants may submit license applications to BIS for authorization to export, reexport, or transfer (in-country) the transitioning item. BIS will process the license applications in accordance with §750.4 of the EAR, hold the license application without action (HWA) if necessary, and issue a license, if approved, to the applicant no sooner than the effective date of the final rule transitioning the items to the CCL.

(2) Following the effective date of a final rule moving items from the USML to the CCL, exporters, reexporters, and transferees of such items may return DDTC licenses in accordance with §123.22 of the ITAR or terminate Technical Assistance Agreements, Manufacturing License Agreements, or Warehouse and Distribution Agreements in accordance with §123.22 of the ITAR and thereafter export, reexport, or transfer (in-country) such items under applicable provisions of the EAR, including any applicable license requirements. No transfer (in-country) may be made of an item exported under a DDTC authorization containing provisions or other limitations without a license issued by BIS unless (i) the transfer (in-country) is authorized by an EAR license exception and the terms and conditions of the License Exception have been satisfied, or (ii) no license would otherwise be required under the EAR to export or reexport the item to the new end user.

(c) Prior commodity jurisdiction determinations. If the U.S. State Department has previously determined that an item is not subject to the jurisdiction of the ITAR and the item was not listed in a then existing “018” series ECCN, then the item is per se not within the scope of a “690 series” ECCN. If the item was not listed elsewhere on the CCL
at the time of such determination (i.e., the item was designated EAR99), the item shall remain designated as EAR99 unless specifically enumerated by BIS or DDTC in an amendment to the CCL or to the USML, respectively.

(d) **Voluntary Self-Disclosure.** Parties to transactions involving transitioning items are cautioned to monitor closely their compliance with the EAR and the ITAR. Should a possible or actual violation of the EAR, or of any license or authorization issued thereunder, be discovered, the person or persons involved are strongly encouraged to submit a Voluntary Self-Disclosure to the Office of Export Enforcement, in accordance with §764.5(f) of the EAR. Permission from the Office of Export Services, in accordance with §764.5(f) of the EAR, to engage in further activities in connection with that item may also be necessary. Should a possible or actual violation of the ITAR, or of any license or authorization issued thereunder, be discovered, the person or persons involved are strongly encouraged to submit a Voluntary Disclosure to DDTC, in accordance with §127.12 of the ITAR. For possible or actual violations of both the EAR and ITAR, the person or persons involved are strongly encouraged to submit disclosures to both BIS and DDTC, indicating to each agency that they also have made a disclosure to the other agency.


**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 §360(g) of Title 19, United States Code.

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

(a) Exclusion of persons guilty of unethical 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 unethical 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.

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

(i) 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;

(iv) Charging, or proposing to charge, for any service performed in connection with the issuance of any license, any fee wholly contingent upon the granting of such license and the amount or value thereof. This provision will not be construed to prohibit the charge of any fee agreed to by the parties; provided that the out-of-pocket expenditures and the reasonable value of the services performed, whether or not the license is issued and regardless of the amount thereof, are fairly compensated; and

(v) Knowingly violating or participating in the violation of, or an attempt to violate, any regulation with respect to the export of commodities or technical data, including the making of or inducing another to make any false representations to facilitate any export in violation of the Export Administration Act or any order or regulation issued thereunder.

(3) **Definition.** As used in this Administrative Order, the terms “practice before BIS” and “appear before BIS” include:

(i) The submission on behalf of another of applications for export licenses or other documents required to be filed with BIS, or the execution of the same;

(ii) Conferences or other communications on behalf of another with officers or employees of BIS for the purpose of soliciting or expediting approval by BIS of applications for export licenses or other documents, or with respect to quotas, allocations, requirements or other export control actions, pertaining to matters within the jurisdiction of BIS;

(iii) Participating on behalf of another in any proceeding pending before BIS; and

(iv) Submission to a customs official on behalf of another of a license or Shipper’s Export Declaration or other export control document.