

DEPARTMENT OF COMMERCE**Bureau of Industry and Security**

15 CFR Parts 734, 738, 740, 742, 748, 750, 772, 774

[Docket No. 201221–0350]

RIN 0694–AI33

Implementation in the Export Administration Regulations of the United States’ Rescission of Sudan’s Designation as a State Sponsor of Terrorism

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to implement the rescission of Sudan’s designation as a State Sponsor of Terrorism (SSOT). The Secretary of State rescinded this designation effective December 14, 2020 in accordance with established statutory procedures, including the President’s October 26, 2020 submission to Congress of a report justifying the rescission and certifying Sudan had not provided any support for acts of international terrorism during the preceding six month period and that Sudan had provided assurances that it would not support acts of international terrorism in the future. Accordingly, BIS amends the EAR by removing Anti-Terrorism (AT) controls on the country and by removing Sudan from Country Group E:1 (Terrorist supporting countries). These actions render the country eligible for a general 25 percent *de minimis* level. As a consequence of these actions, as well as the addition of the country to Country Group B, Sudan is also potentially eligible for several new license exceptions under the EAR. However, pursuant to this rule, two license exceptions will be unavailable for exports and reexports to Sudan. BIS also makes conforming amendments in other applicable EAR provisions as part of this rule.

DATES: This rule is effective January 14, 2021.

FOR FURTHER INFORMATION CONTACT: Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, by email at *Foreign.Policy@bis.doc.gov*, or by phone at 202–482–4252.

SUPPLEMENTARY INFORMATION:

Background**I. Brief History of Anti-Terrorism Controls on Sudan***A. Overview*

Sections 1753, 1754, and 1768 of the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. Sections 4801–4852, provide the legal authority for BIS’s AT controls on SSOT destinations. On August 12, 1993, in accordance with Section 6(j) of the Export Administration Act of 1979, then codified at 50 U.S.C. App. 2405(j), the Secretary of State designated Sudan as a SSOT, citing his determination that Sudan, then led by Omar al-Bashir, had repeatedly provided support for acts of international terrorism. *See* 58 FR 52523 (Oct. 8, 1993). Consistent with this designation, BIS imposed AT controls on Sudan in accordance with the Export Administration Act of 1979, as amended, formerly codified at 50 U.S.C. Sections 4601–4623, the legal authority at the time for BIS’s export control regime. 61 FR 12714 (March 25, 1996). Pursuant to § 742.10 (Anti-Terrorism) of the EAR, a license was also required for the export or reexport to Sudan of nearly all items on the Commerce Control List (CCL), Supp. No. 1 to part 774 of the EAR. License applications for such exports and reexports were reviewed under a general policy of denial. Consistent with Sudan’s designation as a SSOT, the country was also placed in Country Group E (now Country Group E:1): (terrorist-supporting countries) in Supplement No. 1 to part 740 of the EAR and made subject to a 10 percent *de minimis* threshold for controlled U.S.-origin content (*see* § 734.4 of the EAR). Most license exceptions were also unavailable for exports and reexports of CCL items destined for Sudan due to its status as an “E:1” country.

B. Changes to Certain Licensing Policies and License Exceptions

Notwithstanding the general policy of denial set forth in § 742.10 of the EAR, prior to the publication of this rule, BIS reviewed certain categories of CCL items proposed for export or reexport to Sudan under less stringent review policies. In particular, applications for the export and reexport of medical items to Sudan were subject to case-by-case review. Over time, consistent with U.S. foreign policy initiatives, BIS instituted case-by case review or a general policy of approval for additional categories of items. For example, acting in coordination with the Department of the Treasury’s Office of Foreign Assets Control (OFAC), in order to promote the

free flow of communications among the Sudanese people, in February 2015, BIS amended § 742.10 to establish a case-by-case review policy for telecommunication equipment and associated items for civil end use, including items useful for the development of civil telecommunications infrastructure. *See* 80 FR 8520 (Feb. 18, 2015). Two years later, in January 2017, in response to positive developments in the U.S.-Sudan bilateral relationship, BIS amended § 742.10, again in coordination with OFAC, to institute a general policy of approval for certain items, including parts, components, and equipment, that are controlled on the CCL solely for AT reasons and are intended to ensure the safety of civil aviation or the safe operation of fixed-wing commercial passenger aircraft, as well as items controlled on the CCL solely for AT reasons intended for use in the inspection and repair, among other activities, of railroads in Sudan. *See* 82 FR 4781 (Jan. 17, 2017).

BIS also made changes to license exception eligibility in connection with foreign policy considerations and developments. In February 2005, BIS amended License Exception Temporary imports, exports, reexports, and transfers (in-country) (TMP) to permit temporary exports to Sudan of certain computers, communication devices, and global positioning devices as “tools of trade” by employees and staff of certain organizations engaged in humanitarian work in Sudan. *See* 70 FR 8257 (Feb. 18, 2005) and 70 FR 9703 (Feb. 28, 2005). In February 2008, BIS amended TMP again in connection with exports and reexports destined for Sudan, including by expanding the number of activities and commodities eligible under the “tools of trade” category, an action taken in part to reflect the changing nature of humanitarian work undertaken in the country by nongovernmental organizations. *See* 73 FR 10668 (Feb. 28, 2008). In January 2017, as part of the same regulatory action described above that created a more favorable license review policy for certain items for use in civil aviation and railroad infrastructure in Sudan, BIS made License Exception Consumer Communications Devices (CCD) eligible for the export and reexport of certain consumer communications devices to Sudan.

C. Dual Licensing—BIS and OFAC

For nearly twenty years, licenses from both BIS and OFAC were required to export and reexport items on the CCL to Sudan as a consequence of broad trade restrictions imposed in November 1997,

including restrictions on U.S. persons' exports of U.S.-origin items to Sudan. Pursuant to Executive Order (E.O.) 13067 of November 3, 1997, the U.S. Government imposed a comprehensive trade embargo in response to the Government of Sudan's policies and activities, including its support for terrorism, efforts to destabilize neighboring governments, and the prevalence of human rights violations. Specifically, this E.O. blocked the property of the Government of Sudan subject to U.S. jurisdiction and imposed restrictions on U.S. persons' activities with respect to Sudan. On July 1, 1998, OFAC published the Sudanese Sanctions Regulations, 31 CFR part 538 (SSR), implementing these restrictions. See 63 FR 35809 (July 1, 1998). Notably, as implemented in the SSR, E.O. 13067 required the Department of the Treasury to restrict the export or reexport to Sudan of goods, technology, or services from the U.S. or by a U.S. person, wherever located, or "requiring the issuance of a license by a Federal agency." See Section 2(b) of E.O. 13067 and 31 CFR 538.205 (2017). This language provided the basis for a dual licensing regime pursuant to which the export and reexport of CCL items to Sudan required authorization by both BIS and OFAC.

On October 13, 2006, President George W. Bush issued E.O. 13412 following the enactment of the Darfur Peace and Accountability Act of 2006, a response to continuing atrocities in Sudan's Darfur Region. This E.O. exempted certain regions in Sudan from several prohibitions established pursuant to E.O. 13067, including those applicable to exports, thereby effectively narrowing the scope of exports and reexports of CCL items subject to dual licensing.

D. Termination of the Embargo

In recognition of positive actions sustained by the Government of Sudan in several areas, including enhanced cooperation with the U.S. on counterterrorism efforts, effective October 12, 2017, President Donald J. Trump revoked Sections 1 and 2 of E.O. 13067, along with E.O. 13412 in its entirety, pursuant to E.O. 13761 of January 13, 2017, as amended by E.O. 13804 of July 11, 2017. Consequently, as of October 12, 2017, U.S. persons were no longer prohibited from engaging in transactions with respect to Sudan, including exports and reexports of items destined for Sudan, or with the Government of Sudan, that had been prohibited by the SSR. These actions generally established BIS as the sole licensing agency for exports and

reexports of items subject to the EAR to Sudan. To reflect the revocation of these authorities, OFAC removed the SSR from the Code of Federal Regulations on June 29, 2018. OFAC only retained jurisdiction over certain exports and reexports of agricultural commodities, medicine, and medical devices destined for Sudan pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000, 22 U.S.C. Section 7201 *et seq.*, and authorized the export and reexport of such items through a general license incorporated into Section 596.506 of the Terrorism List Governments Sanctions Regulations, 31 CFR part 596.

II. Rescission-Related Developments

Once a country is designated a State Sponsor of Terrorism, the designation remains in effect until it is rescinded in accordance with applicable law. On October 26, 2020, the President submitted to Congress the statutorily-required report justifying the rescission, and certifying that Sudan had not provided any support for acts of international terrorism during the preceding six month period and that Sudan had provided assurances that it would not support acts of international terrorism in the future. Effective December 14, 2020, the Secretary of State rescinded Sudan's designation as a SSOT, in accordance with Sections 1754(c) and 1768(c) of the National Defense Authorization Act for Fiscal Year 2019 (50 U.S.C. 4813(c) and 4826(c)), and in satisfaction of the provisions of Section 620A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(c)), Section 40(f) of the Arms Export Control Act of 1976 (22 U.S.C. 2708(f)), and, to the extent applicable, section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), as continued in effect by Executive Order 13222 of August 17, 2001. BIS is publishing this rule amending the EAR to implement the rescission.

On October 23, 2020, the date that President Trump notified Congress of his intention to rescind the SSOT designation, the White House heralded the development as marking the advancement of the United States' bilateral relationship with Sudan and the ongoing efforts of the civilian-led Sudanese transitional government toward democracy and the achievement of regional peace. See October 23, 2020 Statement of the Press Secretary on Sudan, available at <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-sudan/>. As noted by Secretary of State Michael R. Pompeo, President's Trump

decision "reflect[ed] the . . . transitional government's sustained efforts to make sure there is no support for acts of international terrorism." See November 2, 2020 State Department Press Statement, "Sudan Making Progress," available at <https://www.state.gov/sudan-making-progress/>.

III. Specific Amendments in This Rule

A. Overview

Consistent with the Secretary of State's rescission of Sudan's designation as a SSOT, effective December 14, 2020, this rule removes AT controls on the country and makes conforming changes to various EAR provisions. First, this rule removes Sudan from Country Group E:1 in Supplement No. 1 to part 740, the Country Group placement for terrorist supporting countries. This action raises the *de minimis* level from 10 percent to 25 percent for most foreign-origin items located abroad that are destined for Sudan. These changes make Sudan potentially eligible for new license exceptions under the EAR. Second, this rule removes EAR § 742.10 (Anti-Terrorism: Sudan) in its entirety. Additionally, it adds Sudan to Country Group B in Supplement No. 1 to part 740. As a general matter, countries in Country Group B are eligible for a greater number of license exceptions, and they are subject to relatively less stringent license review policies. However, pursuant to this rule, two license exceptions, License Exception Shipments to Country Group B countries (GBS) (§ 740.4) and License Exception Technology and software under restriction (TSR) (§ 740.6), will be unavailable for exports and reexports to Sudan. Moreover, Sudan's continued placement in Country Group D:5 (U.S. Arms Embargoed Countries) impacts the availability of certain license exceptions in connection with items controlled under certain Export Control Classification Numbers (ECCNs). Finally, this rule makes conforming amendments to parts 734, 738, 748, 750, 772 and 774 of the EAR, and additional amendments to parts 740 and 742, consistent with the removal of AT controls, the country's removal from Country Group E:1, and addition to Country Group B. Other previously-existing license requirements remain intact.

Conforming changes include the removal of all references to Sudan from Supplement No. 2 to part 742, which specifies contract sanctity dates and related licensing review policies for certain items destined for countries subject to AT controls. This rule also amends License Exceptions GBS and

TSR set forth in part 740 (License Exceptions) to state that they are not available for Sudan. Additionally, it amends part 740 to remove references to Sudan from three license exceptions. As detailed below, these license exceptions had authorized exports and reexports of certain CCL items to Sudan notwithstanding the imposition of AT controls and the country's related placement in Country Group E:1.

B. Highlights of Key Changes

1. Changes to the Applicable De Minimis Level for Controlled U.S.-Origin Content

The EAR apply to foreign-made items located outside the United States that contain more than a *de minimis* amount of controlled U.S.-origin content by value. For most items, the *de minimis* level is 10 percent if the destination of the foreign-made item is in Country Group E:1 and 25 percent if the destination is in any other Country Group. The removal of Sudan from Country Group E:1 raises the *de minimis* level to 25 percent for most items destined for Sudan. Additionally, this 25 percent *de minimis* level will apply to certain foreign-made encryption items destined for Sudan that meet the criteria specified in § 734.4(b)(1) of the EAR. Foreign-made items destined for Sudan that incorporate U.S.-origin 9x515 or "600 series" paragraphs a. through .x content will continue to be subject to the EAR regardless of the level of U.S.-origin content, *i.e.*, there is no *de minimis* level for such items when they are destined for Sudan.

2. Applicable Controls and Related Licensing Policies

Sudan will be subject to licensing requirements that apply to the export and reexport of items on the multilateral export control regime lists (the Wassenaar Arrangement, the Nuclear Suppliers Group, the Australia Group and the Missile Technology Control Regime) and sensitive items controlled unilaterally for Crime Control (CC) or Regional Stability (RS) reasons. These license requirements are set forth in part 742 of the EAR and are reflected in the relevant columns of the Country Chart in Supplement No. 1 to part 738 of the EAR. (See "Xs" reflecting the applicability of various multilateral and unilateral controls on Sudan.) Other categories of items that are controlled for reasons not included on the Country Chart (*e.g.*, encryption (EI) and Chemical Weapons (CW)) will also require a license for export or reexport to Sudan. End User and End-Use-based controls set forth in part 744 of the EAR

will also continue to apply. BIS will review license applications for exports or reexports to Sudan on a case-by-case basis pursuant to applicable licensing policies set forth in parts 742 and 744, or elsewhere in the EAR. Exporters should also be aware that the United States continues to maintain an arms embargo on Sudan, as implemented in Country Group D:5, which also implements the United Nations arms embargo, imposed in 2004, that applies to certain items controlled for United Nations (UN) reasons that are destined for the Darfur region in Sudan, as implemented in § 746.1 of the EAR.

3. Changes to License Exceptions

Consistent with the removal of AT controls on Sudan (and the related removal of the country from Country Group E:1), BIS is amending four license exceptions that make specific reference to Sudan or to Sudanese nationals. Through revising three of these license exceptions to reflect policy changes that occurred following Sudan's designation as a SSOT, BIS had authorized certain categories of transactions that were destined for Sudan notwithstanding the imposition of AT controls and the country's related placement in Country Group E:1. BIS also removes restrictions on releases to Sudanese nationals of technology and source code pertaining to computers from a fourth license exception.

License Exception Computers (APP)

Sudan is removed from § 740.7, paragraph (b)(2)(ii), which restricts technology and source code from release to nationals of Country Groups E:1 and E:2. The country is added to paragraph (d)(1) (Computer Tier 3 destinations), which will permit the release of technology and source code to Sudanese nationals up to the prescribed limit.

License Exception Temporary Imports, Exports, Reexports, and Transfers (In-Country) (TMP)

Paragraph (a)(2) of § 740.9, which referred to tools of the trade (as identified in § 740.19(b)) as exempted from paragraph (a)(1) restrictions on Country Group E:1 when destined for Sudan, is no longer applicable and is deleted.

License Exception Additional Permissive Reexports (APR)

Paragraph (i) of § 740.16, which authorized certain exports and reexports of Anti-Terrorism controlled items to Sudan, is no longer applicable and is deleted.

License Exception Consumer Communications Devices (CCD)

Section 740.19 (Consumer Communications Devices) no longer requires any reference to Sudan, as the eligible commodities and software specified therein may now be exported and reexported (barring end-use or end-user restrictions) to Sudan, including to the Sudanese Government. In light of the U.S. Government's "unblocking" of the Government of Sudan effective October 2017, the license exception's reference to restrictions on the Government of Sudan is inapplicable. This rule consequently removes the reference to Sudan in paragraph (a), and in the introductory text to paragraph (b), which identified Sudan as an eligible destination for this license exception. It also removes paragraph (c)(iii), which identified the Government of Sudan as an ineligible end-user for the license exception. Additionally, this rule removes altogether paragraph (b)(18), which permitted the export and reexport of items controlled under Export Control Classification Number 7A994 to Sudan only.

4. Availability of Other License Exceptions

As an E:1 country, Sudan was eligible for only a limited number of license exceptions. Many license exceptions contain restrictions that apply to countries in Country Group E:1 or to nationals of such countries. As a consequence of Sudan's removal from Country Group E:1, Sudan and/or Sudanese nationals are newly eligible for several license exceptions. No changes are required to the text of these license exceptions, as they do not refer specifically to Sudan or to Sudanese nationals. Additionally, as noted above, Sudan's addition to Country Group B by this rule makes the country potentially available for a broader range of license exceptions. However, BIS has determined that exports and reexports to Sudan are not eligible for License Exceptions GBS and TSR. This rule makes conforming changes in part 740 consistent with that policy. Specifically, amendments in §§ 740.4 and 740.6 clearly set forth that License Exceptions GBS and TSR, respectively, are unavailable for Sudan. As with all license exceptions, a specific transaction must meet all enumerated criteria, and persons should ensure that the restrictions set forth in § 740.2 (Restrictions on all license exceptions) do not apply. In particular, persons should be aware of limitations on the availability of license exceptions for exports and reexports to Sudan of items

in a 9x515 or “600 series” ECCN as set forth in paragraphs (a)(12) and (13) of § 740.2 that stem from Sudan’s placement in Country Group D:5.

5. Other U.S. Government Regulatory Obligations

The amendments to the EAR made in this final rule do not apply to regulatory requirements administered by other U.S. Government agencies, such as OFAC and the Department of State’s Directorate of Defense Trade Controls. In particular, U.S. persons should be aware of restrictions that may apply to transactions involving the Darfur region of Sudan. On October 30, 2020, President Trump continued in effect the national emergency initially declared with respect to the Government of Sudan in E.O. 13067, as expanded by subsequent E.O.s, including E.O. 13400 of April 26, 2006, due to violence in Sudan’s Darfur region. *See* Presidential Notice, 85 FR 69463 (Nov. 2, 2020). OFAC administers sanctions on individuals and entities in connection with the conflict in Darfur based on this national emergency. *See* Darfur Sanctions Regulations, 31 CFR part 546. OFAC may also designate Sudanese persons under authorities apart from E.O. 13067 and E.O. 13400 and add such persons to the list of Specially Designated Nationals and Blocked Persons (SDN List), available at <https://www.treasury.gov/ofac>. Additional information regarding OFAC’s sanctions programs may be located at <https://www.treasury.gov/ofac>.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. Sections 4801–4852. ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a “significant regulatory

action” under section 3(f) of Executive Order 12866.

2. This final rule is not subject to the requirements of E.O. 13771 (82 FR 9339 (February 3, 2017)) because it is issued with respect to a national security function of the United States. In particular, this rule implements an important U.S. foreign policy change, the rescission of Sudan’s designation as a State Sponsor of Terrorism, that is closely linked with U.S. national security and regional security objectives. The amendments to the EAR made by this rule are consistent with the rescission and therefore serve U.S. foreign policy and national security interests.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

6. Notwithstanding any other provision of law, no person may be required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved by OMB under control number 0694–0088, Simplified Network Application Processing System. The collection includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission for a total burden estimate of 31,878 hours. BIS expects the burden hour estimates associated with this collection to decrease slightly, as the removal of Anti-terrorism controls on Sudan should result in the submission of fewer license applications. Any comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, should be sent

within 30 days of publication of this notice to <http://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Parts 738 and 772

Exports.

15 CFR Parts 740, 748 and 750

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR 746

Exports, Reporting and recordkeeping requirements.

15 CFR Parts 774

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, parts 734, 738, 740, 742, 748, 750, 772, 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 734—SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

- 1. The authority citation for part 734 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 12, 2019, 84 FR 61817, 3 CFR, 2019 Comp., p. 479.

§ 734.4 [Amended]

- 2. Amend § 734.4 by removing “Sudan,” from paragraph (a)(1).

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

- 3. The authority citation for part 738 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824;

50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

Supplement No. 1 to Part 738 [Amended]

■ 4. In Supplement No. 1 to part 738, the entry for “Sudan 1” is amended by removing the “X” from Anti-Terrorism Columns 1 and 2.

PART 740—LICENSE EXCEPTIONS

■ 5. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 6. Section 740.4 is revised to read as follows:

§ 740.4 Shipments to Country Group B countries (GBS).

License Exception GBS authorizes exports and reexports to Country Group B (see Supplement No. 1 to part 740), except Sudan and Ukraine, of those commodities where the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) indicates a license requirement to the ultimate destination for national security reasons only and identified by “GBS—Yes” on the CCL. See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception GBS.

■ 7. Section 740.6 is amended by revising paragraph (a) introductory text to read as follows:

§ 740.6 Technology and software under restriction (TSR).

(a) *Scope.* License Exception TSR permits exports and reexports of technology and software where the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) indicates a license requirement to the ultimate destination for national security reasons only and identified by “TSR—Yes” in entries on the CCL, provided the software or technology is destined to Country Group B, except Sudan and Ukraine. (See Supplement No. 1 to part 740.) A written assurance is required from the consignee before exporting or reexporting under this License Exception.

* * * * *

§ 740.7 [Amended]

■ 8. Amend § 740.7 by

■ a. Removing “Sudan,” from paragraph (b)(2)(ii); and

■ b. Adding “Sudan,” between “Serbia,” and “Tajikistan,” in paragraph (d)(1).

§ 740.9 [Amended]

■ 9. Amend § 740.9 by

- a. Removing and reserving paragraph (a)(2);
- b. Removing “Sudan,” from paragraph (a)(9)(i); and
- c. In paragraph (c)(2), removing the phrase “,and Sudan” and adding “and” in front of “Iran”.

§ 740.16 [Amended]

■ 10. Amend § 740.16 by removing and reserving paragraph (i).

§ 740.19 [Amended]

■ 11. Amend § 740.19 by

- a. Removing “or Sudan” from paragraphs (a), (b), and (c)(i);
 - b. Removing paragraph (b)(18); and
 - c. Removing and reserving paragraph (c)(iii).
- 12. Amend Supplement No. 1 to part 740 by:
- a. Amending the “Country Group B” table, by adding Sudan in alphabetical order.
 - b. Revising the “Country Group E 1” table.

The revision reads as follows:

Supplement No. 1 to Part 740

* * * * *

COUNTRY GROUP E 1

Country	[E:1] Terrorist supporting countries ²	[E:2] Unilateral embargo
Cuba	X
Iran	X
Korea, North	X
Syria	X

¹ In addition to the controls maintained by the Bureau of Industry and Security pursuant to the EAR, note that the Department of the Treasury administers:

(a) A *comprehensive embargo* against Cuba and Iran; and

(b) An *embargo against certain persons*, e.g., Specially Designated Terrorists (SDT), Foreign Terrorist Organizations (FTO), Specially Designated Global Terrorists (SDGT), and Specially Designated Narcotics Traffickers (SDNT). Please see part 744 of the EAR for controls maintained by the Bureau of Industry and Security on these and other persons.

² The President made inapplicable with respect to Iraq provisions of law that apply to countries that have supported terrorism.

PART 742—CONTROL POLICY—CCL BASED CONTROLS

■ 13. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C.

3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2019, 84 FR 61817, 3 CFR, 2019 Comp., p. 479.

■ 14. Amend § 742.1 by revising paragraph (d) to read as follows:

§ 742.1 Introduction.

* * * * *

(d) *Anti-terrorism Controls on Iran, North Korea, and Syria.* Commerce maintains anti-terrorism controls on Iran, North Korea, and Syria under section 6(a) of the Export Administration Act. Items controlled under section 6(a) to Iran, Syria, and North Korea are described in §§ 742.8, 742.9, 742.10, and 742.19, respectively, and in Supplement No. 2 to part 742. Commerce also maintains controls under section 6(j) of the EAA to Iran, North Korea, and Syria. Items controlled to these countries under EAA section 6(j) are also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to North Korea, Iran, or Syria. If you are exporting or reexporting to Iran, North Korea, or Syria, you should review part 746 of the EAR, Embargoes and Other Special Controls.

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§ 742.10 [Removed and Reserved]

■ 15. Remove and reserve § 742.10.

■ 16. Amend Supplement No. 2 to Part 742 by:

- a. Removing “and Sudan” from the heading;
- b. Removing “Sudan” from paragraph (a);
- c. Removing “Sudan,” from paragraph (b)(1);
- d. Removing “Sudan” from paragraph (b)(3) introductory text;
- e. Removing “for Sudan, items in paragraphs (c)(6) through (c)(14) and (c)(16) through (c)(44) of this Supplement:” from paragraph (b)(3)(ii);
- f. Revising paragraph (c) introductory text;
- g. Removing and reserving paragraph (c)(1)(iii);
- h. Revising paragraphs (c)(2) and (3);
- i. Removing paragraphs (c)(10)(iii), (c)(11)(iii), (c)(12)(iii), (c)(13)(iii),

(c)(14)(iii), (c)(16)(iii), (c)(17)(iii), (c)(18)(iii), (c)(19)(iii), (c)(20)(ii), (c)(21)(ii), (c)(22)(iii), (c)(23)(iii), (c)(24)(iii), (c)(25)(iv), (c)(26)(i)(C), (c)(27)(iii), (c)(28)(iii), (c)(29)(iii), (c)(30)(iii), (c)(31)(iii), (c)(32)(iii), (c)(33)(iii), (c)(34)(iii), (c)(35)(iii), (c)(36)(iii), (c)(37)(iii), (c)(38)(iii), (c)(39)(i)(C), (c)(40)(iii), (c)(41)(iii), (c)(42)(iii), (c)(43)(iii), (c)(44)(iii), (c)(46)(ii), (c)(47)(ii), and (c)(48)(ii).

Supplement No. 2 to Part 742—Anti-Terrorism Controls: North Korea and Syria

* * * * *

(c) The license requirements and licensing policies for items controlled for anti-terrorism reasons to Syria and North Korea are generally described in §§ 742.9 and 742.19 of this part, respectively. This Supplement provides guidance on licensing policies for North Korea and Syria and related contract sanctity dates that may be available for transactions benefiting from pre-existing contracts involving Syria.

* * * * *

(2) All items subject to chemical and biological weapons proliferation controls. Applications for all end-users in North Korea and Syria of these items will generally be denied. See Supplement No. 1 to part 742 for contract sanctity dates for Syria.

(3) All items subject to missile proliferation controls (MTCR). Applications for all end-users in North Korea and Syria will generally be denied. Contract sanctity provisions for Syria are not available.

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PART 748—APPLICATIONS (CLASSIFICATION, ADVISORY, AND LICENSE) AND DOCUMENTATION

■ 17. The authority citation for part 748 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2020, 85 FR 49939 (August 14, 2020).

Supplement No. 2 to Part 748 [Amended]

■ 18. Amend Supplement No. 2 to part 748 by removing “Sudan,” from paragraph (c)(2).

§ 750.4 [Amended]

■ 19. Amend § 750.4 by removing “Sudan,” from paragraph (b)(6)(i).

PART 772—DEFINITIONS OF TERMS

■ 20. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

§ 772.1 [Amended]

- 21. Amend § 772.1 by
a. Removing “and Sudan” from “NOTE 3” to the definition of “Agricultural commodities”.;
b. Removing “Sudan,” from the definition of “Countries supporting international terrorism.”.
c. Removing “Sudan,” from the definition of “Medical devices”; and
d. Removing “Sudan,” from the definition of “Medicines.”.

PART 774—THE COMMERCE CONTROL LIST

■ 22. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 et seq.; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 23. Supplement 1 to part 774 is amended in category 1 by revising ECCN 1C350 and ECCN 1C355 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

Category 1—Special Materials and Related Equipment, Chemicals, “Microorganisms,” and “Toxins”

* * * * *

1C350 Chemicals that may be used as precursors for toxic chemical agents (see List of Items Controlled).

License Requirements

Reason for Control: CB, CW, AT.

Table with 2 columns: Control(s), Country chart (see Supp. No. 1 to part 738)

CB applies to entire entry. CB Column 2

CW applies to 1C350 .b, and .c. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required, for CW reasons, to export or reexport Schedule 2 chemicals and mixtures identified in 1C350.b to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR). A license is required, for CW reasons, to export Schedule 3 chemicals and mixtures identified in 1C350.c to States not Party to the CWC, unless an End-Use Certificate issued by the government of the importing country has been obtained by the exporter

prior to export. A license is required, for CW reasons, to reexport Schedule 3 chemicals and mixtures identified in 1C350.c from a State not Party to the CWC to any other State not Party to the CWC. (See § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons. See § 745.2 of the EAR for End-Use Certificate requirements that apply to exports of Schedule 3 chemicals to countries not listed in Supplement No. 2 to part 745 of the EAR.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Iran, North Korea, and Syria.)

License Requirement Notes

1. SAMPLE SHIPMENTS: Subject to the following requirements and restrictions, a license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of a single chemical to any one consignee during a calendar year. A consignee that receives a sample shipment under this exclusion may not resell, transfer, or reexport the sample shipment, but may use the sample shipment for any other legal purpose unrelated to chemical weapons.

- a. Chemicals Not Eligible:
A. [Reserved]
B. CWC Schedule 2 chemicals (States not Party to the CWC). No CWC Schedule 2 chemical or mixture identified in 1C350.b is eligible for sample shipment to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR) without a license.

b. Countries Not Eligible: Countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR are not eligible to receive sample shipments of any chemicals controlled by this ECCN without a license.

c. Sample shipments that require an End-Use Certificate for CW reasons: No CWC Schedule 3 chemical or mixture identified in 1C350.c is eligible for sample shipment to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR) without a license, unless an End-Use Certificate issued by the government of the importing country is obtained by the exporter prior to export (see § 745.2 of the EAR for End-Use Certificate requirements).

d. Sample shipments that require a license for reasons set forth elsewhere in the EAR: Sample shipments, as described in this Note 1, may require a license for reasons set forth elsewhere in the EAR. See, in particular, the end-use/end-user restrictions in part 744 of the EAR, and the restrictions that apply to embargoed countries in part 746 of the EAR.

e. Annual report requirement. The exporter is required to submit an annual written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled “Report of

Sample Shipments of Chemical Precursors” at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee’s name and address, and the date of export for all sample shipments that were made during the previous calendar year. The report must be submitted no later than February 28 of the year following the calendar year in which the sample shipments were made, to: U.S. Department of Commerce, Bureau of Industry and Security, 14th Street and Pennsylvania Ave., NW, Room 2099B, Washington, DC 20230, Attn: “Report of Sample Shipments of Chemical Precursors.”

2. MIXTURES:

a. Mixtures that contain precursor chemicals identified in ECCN 1C350, in concentrations that are below the levels indicated in 1C350.b through .d, are controlled by ECCN 1C395 or 1C995 and are subject to the licensing requirements specified in those ECCNs.

b. A license is not required under this ECCN for a mixture, when the controlled chemical in the mixture is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are designated EAR99. However, a license may be required for reasons set forth elsewhere in the EAR.

Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. Percent Weight Calculation. When calculating the percentage, by weight, of ingredients in a chemical mixture, include all ingredients of the mixture, including those that act as solvents.

3. COMPOUNDS. Compounds created with any chemicals identified in this ECCN 1C350 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

4. TESTING KITS: Certain medical, analytical, diagnostic, and food testing kits containing small quantities of chemicals identified in this ECCN 1C350, are excluded from the scope of this ECCN and are controlled under ECCN 1C395 or 1C995. (Note that replacement reagents for such kits are controlled by this ECCN 1C350 if the reagents contain one or more of the precursor chemicals identified in 1C350 in concentrations equal to or greater than the control levels for mixtures indicated in 1C350.)

Technical Notes:

1. For purposes of this entry, a “mixture” is defined as a solid, liquid or gaseous product made up of two or more ingredients that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (see 1C350.d.14 in the List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

3. Precursor chemicals in ECCN 1C350 are listed by name, Chemical Abstract Service (CAS) number and CWC Schedule (where

applicable). Precursor chemicals of the same structural formula (e.g., hydrates) are controlled by ECCN 1C350, regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular precursor chemical or mixture is controlled under ECCN 1C350, irrespective of nomenclature. However, CAS numbers cannot be used as unique identifiers in all situations because some forms of the listed precursor chemical have different CAS numbers, and mixtures containing a precursor chemical listed in ECCN 1C350 may also have different CAS numbers.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See USML Category XIV(c) for related chemicals “subject to the ITAR” (see 22 CFR parts 120 through 130).

Related Definitions: See § 770.2(k) of the EAR for synonyms for the chemicals listed in this entry.

Items:

- a. [Reserved]
- b. Australia Group-controlled precursor chemicals also identified as Schedule 2 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:
 - b.1. (C.A.S. #7784–34–1) Arsenic trichloride;
 - b.2. (C.A.S. #76–93–7) Benzilic acid;
 - b.3. (C.A.S. #78–38–6) Diethyl ethylphosphonate;
 - b.4. (C.A.S. #683–08–9) Diethyl methylphosphonate;
 - b.5. (C.A.S. #15715–41–0) Diethyl methylphosphonite;
 - b.6. (C.A.S. #2404–03–7) Diethyl-N,N-dimethylphosphoramidate;
 - b.7. (C.A.S. #41480–75–5) N,N-Diisopropylaminoethanethiol hydrochloride;
 - b.8. (C.A.S. #5842–07–9) N,N-Diisopropyl-beta-aminoethane thiol;
 - b.9. (C.A.S. #96–80–0) N,N-Diisopropyl-beta-aminoethanol;
 - b.10. (C.A.S. #96–79–7), N,N-Diisopropyl-beta-aminoethyl chloride;
 - b.11. (C.A.S. #4261–68–1) N,N-Diisopropyl-beta-aminoethyl chloride hydrochloride;
 - b.12. (C.A.S. #6163–75–3) Dimethyl ethylphosphonate;
 - b.13. (C.A.S. #756–79–6) Dimethyl methylphosphonate;
 - b.14. (C.A.S. #677–43–0) N,N-dimethylamino-phosphoryl dichloride;
 - b.15. (C.A.S. #1498–40–4) Ethyl phosphonous dichloride [Ethyl phosphinyl dichloride];
 - b.16. (C.A.S. #430–78–4) Ethyl phosphonous difluoride [Ethyl phosphinyl difluoride];
 - b.17. (C.A.S. #1066–50–8) Ethyl phosphonyl dichloride;
 - b.18. (C.A.S. #993–13–5) Methylphosphonic acid;
 - b.19. (C.A.S. #676–98–2) Methylphosphonoethioic dichloride.
 - b.20. (C.A.S. #464–07–3) Pinacolyl alcohol;
 - b.21. (C.A.S. #1619–34–7) 3-Quinuclidinol;

- b.22. (C.A.S. #111–48–8) Thiodiglycol.
- c. Australia Group-controlled precursor chemicals also identified as Schedule 3 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:
 - c.1. (C.A.S. #762–04–9) Diethyl phosphite;
 - c.2. (C.A.S. #868–85–9) Dimethyl phosphite (dimethyl hydrogen phosphite);
 - c.3. (C.A.S. #139–87–7) Ethyldiethanolamine;
 - c.4. (C.A.S. #10025–87–3) Phosphorus oxychloride;
 - c.5. (C.A.S. #10026–13–8) Phosphorus pentachloride;
 - c.6. (C.A.S. #7719–12–2) Phosphorus trichloride;
 - c.7. (C.A.S. #10545–99–0) Sulfur dichloride;
 - c.8. (C.A.S. #10025–67–9) Sulfur monochloride;
 - c.9. (C.A.S. #7719–09–7) Thionyl chloride;
 - c.10. (C.A.S. #102–71–6) Triethanolamine;
 - c.11. (C.A.S. #122–52–1) Triethyl phosphite;
 - c.12. (C.A.S. #121–45–9) Trimethyl phosphite.
 - d. Other Australia Group-controlled precursor chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC, as follows, and mixtures in which at least one of the following chemicals constitutes 30 percent or more of the weight of the mixture:
 - d.1. (C.A.S. #1341–49–7) Ammonium hydrogen fluoride;
 - d.2. (C.A.S. #107–07–3) 2-Chloroethanol;
 - d.3. (C.A.S. #109–89–7) Diethylamine;
 - d.4. (C.A.S. #100–37–8) N,N-Diethylaminoethanol;
 - d.5. (C.A.S. #589–57–1) Diethyl chlorophosphite;
 - d.6. (C.A.S. #298–06–6) O,O-Diethyl phosphorodithioate;
 - d.7. (C.A.S. #2465–65–8) O,O-Diethyl phosphorothioate;
 - d.8. (C.A.S. #108–18–9) Di-isopropylamine;
 - d.9. (C.A.S. #124–40–3) Dimethylamine;
 - d.10. (C.A.S. #506–59–2) Dimethylamine hydrochloride;
 - d.11. (C.A.S. #762–77–6) Ethyl chlorofluorophosphate;
 - d.12. (C.A.S. #1498–51–7) Ethyl dichlorophosphate;
 - d.13. (C.A.S. #460–52–6) Ethyl difluorophosphate;
 - d.14. (C.A.S. #7664–39–3) Hydrogen fluoride;
 - d.15. (C.A.S. #3554–74–3) 3-Hydroxyl-1-methylpiperidine;
 - d.16. (C.A.S. #76–89–1) Methyl benzilate;
 - d.17. (C.A.S. #754–01–8) Methyl chlorofluorophosphate;
 - d.18. (C.A.S. #677–24–7) Methyl dichlorophosphate;
 - d.19. (C.A.S. #22382–13–4) Methyl difluorophosphate;
 - d.20. (C.A.S. #14277–06–6) N,N-Diethylacetamide;
 - d.21. (C.A.S. #53510–30–8) N,N-Diethylbutanamide;
 - d.22. (C.A.S. #90324–67–7) N,N-Diethylformamide;
 - d.23. (C.A.S. #1342789–47–2) N,N-Diethylisobutanamide;

- d.24. (C.A.S. #84764–73–8) N,N-Diethylpropanamide;
- d.25. (C.A.S. #1315467–17–4) N,N-Diisopropylbutanamide;
- d.26. (C.A.S. #857522–08–8) N,N-Diisopropylformamide;
- d.27. (C.A.S. #2909–14–0) N,N-Dimethylacetamide;
- d.28. (C.A.S. #1340437–35–5) N,N-Dimethylbutanamide;
- d.29. (C.A.S. #44205–42–7) N,N-Dimethylformamide;
- d.30. (C.A.S. #321881–25–8) N,N-Dimethylisobutanamide;
- d.31. (C.A.S. #56776–14–8) N,N-Dimethylpropanamide;
- d.32. (C.A.S. #1339586–99–0) N,N-Dipropylacetamide;
- d.33. (C.A.S. #1342422–35–8) N,N-Dipropylbutanamide;
- d.34. (C.A.S. #48044–20–8) N,N-Dipropylformamide;
- d.35. (C.A.S. #1342700–45–1) N,N-Dipropylisobutanamide;
- d.36. (C.A.S. #1341496–89–6) N,N-Dipropylpropanamide;
- d.37. (C.A.S. #1314–80–3) Phosphorus pentasulfide;
- d.38. (C.A.S. #75–97–8) Pinacolone;
- d.39. (C.A.S. #7789–29–9) Potassium bifluoride;
- d.40. (C.A.S. #151–50–8) Potassium cyanide;
- d.41. (C.A.S. #7789–23–3) Potassium fluoride;
- d.42. (C.A.S. #3731–38–2) 3-Quinuclidone;
- d.43. (C.A.S. #1333–83–1) Sodium bifluoride;
- d.44. (C.A.S. #143–33–9) Sodium cyanide;
- d.45. (C.A.S. #7681–49–4) Sodium fluoride;
- d.46. (C.A.S. #16893–85–9) Sodium hexafluorosilicate;
- d.47. (C.A.S. #1313–82–2) Sodium sulfide;
- d.48. (C.A.S. #637–39–8) Triethanolamine hydrochloride;
- d.49. (C.A.S. #116–17–6) Tri-isopropyl phosphite.

* * * * *

1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and families of chemicals not controlled by ECCN 1C350 or “subject to the ITAR” (see 22 CFR parts) (see List of Items Controlled).

License Requirements

Reason for Control: CW, AT.
Control(s)

CW applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons. A license is required to export or reexport CWC Schedule 2 chemicals and mixtures identified in 1C355.a to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR). A license is required to export CWC Schedule 3 chemicals and mixtures identified in 1C355.b to States not Party to the CWC, unless an End Use Certificate issued by the government of the importing country is obtained by the exporter, prior to export. A license is required to reexport CWC

Schedule 3 chemicals and mixtures identified in 1C355.b from a State not Party to the CWC to any other State not Party to the CWC. (See § 742.18 of the EAR for license requirements and policies for toxic and precursor chemicals controlled for CW reasons.)

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Iran, North Korea, and Syria.)

License Requirements Notes:

1. MIXTURES:

a. Mixtures containing toxic and precursor chemicals identified in ECCN 1C355, in concentrations that are below the control levels indicated in 1C355.a and .b, are controlled by ECCN 1C995 and are subject to the license requirements specified in that ECCN.

b. Mixtures containing chemicals identified in this entry are not controlled by ECCN 1C355 when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use or packaged for individual use. Such consumer goods are classified as EAR99.

Note to mixtures: Calculation of concentrations of CW-controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

b. Percent Weight Calculation. When calculating the percentage, by weight, of ingredients in a chemical mixture, include all ingredients of the mixture, including those that act as solvents.

2. COMPOUNDS: Compounds created with any chemicals identified in this ECCN 1C355 may be shipped NLR (No License Required), without obtaining an End-Use Certificate, unless those compounds are also identified in this entry or require a license for reasons set forth elsewhere in the EAR.

Technical Notes: For purposes of this entry, a “mixture” is defined as a solid, liquid or gaseous product made up of two or more ingredients that do not react together under normal storage conditions.

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A

GBS: N/A

List of Items Controlled

Related Controls: See also ECCNs 1C350 1C351, 1C395, and 1C995. See §§ 742.18 and 745.2 of the EAR for End-Use

Certification requirements.

Related Definitions: N/A
Items:

a. CWC Schedule 2 chemicals and mixtures containing Schedule 2 chemicals:

a.1. Toxic chemicals, as follows, and mixtures containing toxic chemicals:

a.1.a. PFIB: 1,1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (C.A.S. 382–21–8) and mixtures in which PFIB constitutes more than 1 percent of the weight of the mixture;

a.1.b. [Reserved]

a.2. Precursor chemicals, as follows, and mixtures in which at least one of the following precursor chemicals constitutes more than 10 percent of the weight of the mixture:

a.2.a. Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl, or propyl (normal or iso) group but not further carbon atoms.

Note: 1C355.a.2.a does not control *Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate* (C.A.S. 944–22–9).

a.2.b. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides;

a.2.c. FAMILY: Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr, or i-Pr)-phosphoramidates;

a.2.d. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts;

a.2.e. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts;

Note: 1C355.a.2.e. does not control *N,N-Dimethylaminoethanol and corresponding protonated salts* (C.A.S. 108–01–0) or *N,N-Diethylaminoethanol and corresponding protonated salts* (C.A.S. 100–37–8).

a.2.f. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.

b. CWC Schedule 3 chemicals and mixtures containing Schedule 3 chemicals:

b.1. Toxic chemicals, as follows, and mixtures in which at least one of the following toxic chemicals constitutes 30 percent or more of the weight of the mixture:

b.1.a. Phosgene: Carbonyl dichloride (C.A.S. 75–44–5);

b.1.b. Cyanogen chloride (C.A.S. 506–77–4);

b.1.c. Hydrogen cyanide (C.A.S. 74–90–8);
b.1.d. Chloropicrin: Trichloronitromethane (CAS 76–06–2).

b.2. Precursor chemicals, as follows, and mixtures in which at least one of the following precursor chemicals constitutes 30 percent or more of the weight of the mixture:

b.2.a. [Reserved];

b.2.b. Methyl-diethanolamine (C.A.S. 105–59–9).

* * * * *

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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