

§ 740.4

(e) *Reexports.* Commodities may be reexported under this License Exception, provided that they could be exported from the United States to the new country of destination under LVS.

(f) *Reporting requirements.* See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception LVS.

[61 FR 64274, Dec. 4, 1996, as amended at 63 FR 2456, Jan. 15, 1998; 63 FR 50520, Sept. 22, 1998]

§ 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) of those commodities controlled 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.

[63 FR 2456, Jan. 15, 1998]

§ 740.5 Civil end-users (CIV).

License Exception CIV authorizes exports and reexports controlled to the ultimate destination for national security reasons only and identified by “CIV—Yes” on the CCL, provided the items are destined to civil end-users for civil end-uses in Country Group D:1, except North Korea. (See Supplement No. 1 to part 740.) CIV may not be used for exports and reexports to military end-users or to known military uses. Such exports and reexports will continue to require a license. In addition to conventional military activities, military uses include any proliferation activities described and prohibited by part 744 of the EAR. A license is also required for transfer to military end-users or end-uses in eligible countries of items exported under CIV. See § 743.1 of the EAR for reporting requirements for exports of certain commodities under License Exception CIV.

[61 FR 64275, Dec. 4, 1996, as amended at 63 FR 2456, Jan. 15, 1998; 65 FR 38150, June 19, 2000]

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§ 740.6 Technology and software under restriction (TSR).

(a) *Scope.* License Exception TSR permits exports and reexports of technology and software controlled 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. (See Supplement No. 1 to part 740.) A written assurance is required from the consignee before exporting or reexporting under this License Exception.

(1) *Required assurance for export of technology.* You may not export or re-export technology under this License Exception until you have received from the importer a written assurance that, without a BXA license or License Exception, the importer will not:

(i) Reexport or release the technology to a national of a country in Country Groups D:1 or E:2; or

(ii) Export to Country Groups D:1 or E:2 the direct product of the technology, if such foreign produced direct product is subject to national security controls as identified on the CCL (See General Prohibition Three, § 736.2(b)(3) of the EAR); or

(iii) If the direct product of the technology is a complete plant or any major component of a plant, export to Country Groups D:1 or E:2 the direct product of the plant or major component thereof, if such foreign produced direct product is subject to national security controls as identified on the CCL or is subject to State Department controls under the U.S. Munitions List (22 CFR part 121).

(2) *Required assurance for export of software.* You may not export or re-export software under this License Exception until you have received from the importer a written assurance that, without a BXA license or License Exception, the importer will neither:

(i) Reexport or release the software or the source code for the software to a national of a country in Country Groups D:1 or E:2; nor

(ii) Export to Country Groups D:1 or E:2 the direct product of the software, if such foreign produced direct product is subject to national security controls as identified on the CCL. (See General

Prohibition Three, §736.2(b)(3) of the EAR).

(3) *Form of written assurance.* The required assurance may be made in the form of a letter or any other written communication from the importer, including communications via facsimile, or the assurance may be incorporated into a licensing agreement that specifically includes the assurances. An assurance included in a licensing agreement is acceptable only if the agreement specifies that the assurance will be honored even after the expiration date of the licensing agreement. If such a written assurance is not received, License Exception TSR is not applicable and a license is required. The license application must include a statement explaining why assurances could not be obtained.

(4) *Other License Exceptions.* The requirements in this License Exception do not apply to the export of technology or software under other License Exceptions, or to the export of technology or software included in an application for the foreign filing of a patent, provided the filing is in accordance with the regulations of the U.S. Patent Office.

(b) *Reporting requirements.* See §743.1 of the EAR for reporting requirements for exports of certain items under License Exception TSR. Note that reports are not required for release of technology or source code subject to the EAR to foreign nationals in the U.S. under the provisions of License Exception TSR.

[61 FR 64275, Dec. 4, 1996, as amended at 63 FR 50520, Sept. 22, 1998; 63 FR 55019, Oct. 14, 1998]

§ 740.7 Computers (CTP).

(a) *Scope.* License Exception CTP authorizes exports and reexports of computers and specially designed components therefor, exported or reexported separately or as part of a system for consumption in Computer Tier countries as provided by this section. (Related equipment controlled under 4A003.d, .f, and .g is authorized under this License Exception, only when exported or reexported with these computers as part of a system.) You may not use this License Exception to export or reexport items that you know

will be used to enhance the CTP beyond the eligibility limit allowed to your country of destination. When evaluating your computer to determine License Exception CTP eligibility, use the CTP parameter to the exclusion of other technical parameters for computers classified under ECCN 4A003.a, .b and .c, except for parameters specified as Missile Technology (MT) concerns or 4A003.e (equipment performing analog-to-digital conversions exceeding the limits in ECCN 3A001.a.5.a). This License Exception does not authorize the export or reexport of graphic accelerators or coprocessors, or computers controlled for MT reasons.

(b) *Computer Tier 1—(1) Eligible countries.* The countries that are eligible to receive exports and reexports under this License Exception are Argentina, Australia, Austria, Belgium, Brazil, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Mexico, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and Vatican City.

(2) *Eligible Computers.* The computers eligible for License Exception CTP to Tier 1 destinations are those having a Composite Theoretical Performance (CTP) greater than 6,500 Millions of Theoretical Operations Per Second (MTOPS).

(c) *Computer Tier 2—(1) Eligible countries.* The countries that are eligible to receive exports under this License Exception include Antigua and Barbuda, Bahamas, Barbados, Bangladesh, Belize, Benin, Bhutan, Bolivia, Botswana, Brunei, Burkina Faso, Burma, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Cote d'Ivoire, Cyprus, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Gambia (The), Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hong Kong, Indonesia, Jamaica, Kenya, Kiribati, Korea (Republic of), Lesotho, Liberia, Madagascar, Malawi, Malaysia,