

encryption items (EI) classified under ECCNS 5A002, 5D002 and 5E002 to all destinations except Canada. Refer to part 740 of this EAR for licensing exceptions and to part 772 of the EAR for the definition of "encryption items."

(b) *Licensing policy.* The following licensing policies apply to items identified in paragraph (a) of this section. Except as otherwise noted, applications will be reviewed on a case-by-case basis by BXA, in conjunction with other agencies, to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. For subsequent bundling and updates of these items see paragraph (n) of § 770.2 of the EAR. No exports without a license are authorized to Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria.

(1) *Encryption items under ECCNs 5A992, 5D992 and 5E992.* Certain encryption commodities, software and technology may be classified under ECCNs 5A992, 5D992 or 5E992. These items continue to be subject to AT1 controls. Such items include encryption commodities, software and technology with key lengths up to and including 56-bits with an asymmetric key exchange algorithm not exceeding 512 bits; products which only provide key management with asymmetric key exchange algorithms not exceeding 512 bits; and mass market encryption commodities and software with key lengths not exceeding 64-bits for the symmetric algorithm. Refer to the Cryptography Note (Note 3) to part II of Category 5 of the CCL for a definition of mass market encryption commodities and software. Key exchange mechanisms, proprietary key exchange mechanisms, or company proprietary commodities and software implementations may also be eligible for this treatment. Exporters may self-classify such 5A992, 5D992 or 5E992 items and export them without review and classification by BXA provided you have submitted to BXA and the ENC Encryption Request Coordinator by the time of export the information described in paragraphs (a) through (e) of Supplement 6 to this part 742. Notification should be made by e-mail to crypt@bxa.doc.gov.

(2) *Encryption items under ECCNs 5A002, 5D002 and 5E002.* All encryption

commodities, software and components classified by BXA under ECCNs 5A002, 5D002 and 5E002 except cryptanalytic items are authorized for export and re-export to any end-user in the countries listed in Supplement 3 to Part 740 of the EAR. Items classified by BXA as retail products under ECCNs 5A002 and 5D002 are authorized for export and re-export to any end-user. All 5A002, 5D002 and 5E002 encryption items are authorized for export or reexport to any individual, commercial firm or other non-government end-user in countries not listed in Supplement 3 to Part 740 of the EAR. No exports of such items are authorized without a license to Cuba, Iran, Iraq, North Korea, Libya, Sudan or Syria. Any encryption item (including technology classified under ECCN 5E002) is authorized for export or reexport to U.S. subsidiaries (as defined in part 772).

(3) *Encryption licensing.* Exporters may submit applications for licenses or Encryption Licensing Arrangements for exports and reexports of encryption items not eligible for license exception, including exports and reexports of encryption technology to strategic partners of U.S. companies (as defined in part 772). For Encryption Licensing Arrangements, the applicant must specify the sales territory and class of end-user. Encryption Licensing Arrangements granted for exports of unlimited quantities for all destinations except Cuba, Iran, Iraq, Libya, North Korea, Sudan or Syria, are valid for four years, and may require reporting. Licenses are required for exports of encryption items to governments, or Internet and telecommunications service providers for the provision of services specific to governments, and may be favorably considered for civil uses, *e.g.*, social or financial services to the public; civil justice; social insurance, pensions and retirement; taxes and communications between governments and their citizens.

[65 FR 2499, Jan. 14, 2000, as amended at 65 FR 62608, Oct. 19, 2000]

§ 742.16 India and Pakistan Sanctions.

In accordance with section 102(b) of the Arms Export Control Act, President Clinton reported to the Congress on May 13th with regard to India and

May 30th with regard to Pakistan his determinations that those non-nuclear weapon states had each detonated a nuclear explosive device. The President directed that the relevant agencies and instrumentalities of the United States take the necessary actions to impose the sanctions described in section 102 (b)(2) of that Act. Consistent with the provisions of section 102(b)(2)(G) of the Arms Export Control Act, the following sanctions measures are imposed against India and Pakistan.

(a) *License requirement.* A license is required for all exports and reexports of items controlled for nuclear non-proliferation (NP) reasons to all end-users in India and Pakistan. In addition, a license is required for all exports and reexports of items controlled for missile technology (MT) reasons to all end-users in India and Pakistan, except items listed in § 740.2(a)(5) of the EAR, which remain eligible for applicable License Exceptions when intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft.

(b) *Licensing policy.*

(1) *Nuclear Nonproliferation.* There is a policy of denial for all applications to export and reexport items controlled for nuclear proliferation (NP) reasons to all end-users in India and Pakistan, except high performance computers (see § 742.12(b)(3)(iii) of this part for licensing policy regarding high performance computers).

(2) *Missile Technology.* There is a policy of denial for all applications to export and reexport items controlled for missile technology (MT) reasons to all end-users in India and Pakistan, except items intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft, which will be reviewed on a case-by-case basis.

[63 FR 64324, Nov. 19, 1998]

§ 742.17 Exports of firearms to OAS member countries.

(a) *License requirements.* BXA maintains a licensing system for the export of shotguns and related items to all OAS member countries. This action is based on the Organization of American States (OAS) Model Regulations for the Control of the International Movement

of Firearms, their Parts and Components and Munitions (OAS Model Regulations) which were developed to assist OAS member countries to implement the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (Firearms Convention).¹ Items subject to these controls are identified by “FC Column 1” in the “License Requirements” section of their Export Control Classification Number (ECCN) on the Commerce Control List (CCL). If “FC Column 1” of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated for a particular country, a license is required for export to that destination. Licenses will generally be issued on an Import Certificate or equivalent official document, satisfactory to BXA, issued by the government of the importing country is also required for the export of such items to OAS member countries.

(b) *Licensing policy.* Applications supported by an Import Certificate or equivalent official document issued by the government of the importing country for such items will generally be approved, except there is a policy of denial for applications to export items linked to such activities as drug trafficking, terrorism, and transnational organized crime.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications under this § 742.17.

(d) *OAS Model Regulations.* The OAS Model Regulations on which regulations are based are designed by OAS member countries to combat illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials in North and South America because of their links to such activities as drug trafficking, terrorism, and transnational organized crime.

(e) *OAS member countries to which firearms controls under this section apply.* The OAS member countries include: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa

¹Status of Convention as of April 13, 1999 had not entered into force.