

§ 744.12

civil aircraft, which will be reviewed on a case-by-case basis; and computers, which will be reviewed with a presumption of denial. Items classified as EAR99 will be reviewed with a presumption of approval. All other items subject to the EAR to these listed entities will be reviewed with a presumption of denial.

(2) *Parastatal and private entities.* Applications to export or reexport items controlled for NP or MT reasons to certain parastatal and private entities will be denied, 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; and computers, which will be reviewed with a presumption of denial. Items classified as EAR99 will be reviewed with a presumption of approval. All other items subject to the EAR to these listed entities will be reviewed with a presumption of denial. Except for items controlled for NP or MT reasons, exports or reexports to listed parastatals and private entities with whom you have a preexisting business arrangement will be considered on a case-by-case basis, with a presumption of approval in cases where neither the arrangement nor the specific transaction involves nuclear or missile activities and the exports or reexports are pursuant to that arrangement. Because EAR99 items have a license review policy of presumption of approval, you may choose not to provide documentation of such arrangements for those items. The term “business arrangement” covers the full range of business agreements, including general contracts, general terms agreements (*e.g.*, agreements whereby the seller delivers products under purchase orders to be issued by the buyer), general business agreements, offset agreements, letter agreements that are stand-alone contracts, and letter agreements that are amendments to existing contracts or other agreements. The terms of the preexisting business arrangement policy may also apply to the longstanding continued supply of a particular item or items from the exporter to the entity even when there is no current agreement between the firms. BXA, in conjunction with other agencies, will de-

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termine eligibility under the preexisting business arrangement policy. In order to be eligible under the policy, you must provide documentation to establish such an arrangement. The documentation should be provided at the time you submit a license application to export or reexport items to any listed parastatal or private entity.

[63 FR 64324, Nov. 19, 1998, as amended at 65 FR 14445, Mar. 17, 2000]

§ 744.12 Restrictions on certain military entities in Pakistan and India.

(a) *General restriction.* Certain military entities in India and Pakistan are included in Supplement No. 4 to this part 744 (Entity List). (See also § 744.1(c) of the EAR.) These entities are ineligible to receive exports or reexports of all items subject to the EAR having a classification other than EAR99 without a license. Exports and reexports of all items subject to the EAR having a classification other than EAR99 to listed military entities require a license. A license is also required if you know that the ultimate consignee or end-user is a listed military Indian or Pakistani entity, and the item is subject to the EAR having a classification other than EAR99.

(b) *Exceptions.* No License Exceptions are available to the entities described in paragraph (a) of this section, except those applicable to items listed in § 740.2(a)(5) of the EAR, which remain available to such entities when intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft.

(c) *License review policy.* Applications to export or reexport items controlled for NP or MT reasons to listed military entities will be denied, 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; and computers, which will be reviewed with a presumption of denial. All other license applications will be reviewed with a presumption of denial.

[63 FR 64325, Nov. 19, 1998]