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(f) Supplement No. 3 to this part provides you with information on embargoes on the Federal Republic of Yugoslavia (Serbia and Montenegro) and certain areas of Croatia and Bosnia-Herzegovina administered by OFAC (31 CFR part 585).

[61 FR 12806, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1996; 65 FR 38160, June 19, 2000]

§ 746.2 Cuba.

(a) *License requirements.* As authorized by section 6 of the Export Administration Act of 1979, as amended (EAA) and by the Trading with the Enemy Act of 1917, as amended, you will need a license to export or reexport all items subject to the EAR (see part 734 of the EAR for the scope of items subject to the EAR) to Cuba, except as follows.

(1) *License Exceptions.* You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the following License Exceptions. To determine the scope and eligibility requirements, you will need to turn to the sections or specific paragraphs of part 740 of the EAR (License Exceptions). Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) Temporary exports and reexports (TMP) by the news media (see § 740.9(a)(2)(viii) of the EAR).

(ii) Operation technology and software (TSU) for legally exported commodities (see § 740.13(a) of the EAR).

(iii) Sales technology (TSU) (see § 740.13(b) of the EAR).

(iv) Software updates (TSU) for legally exported software (see § 740.13(c) of the EAR).

(v) Parts (RPL) for one-for-one replacement in certain legally exported commodities (see § 740.10(a) of the EAR).

(vi) Baggage (BAG) (see § 740.14 of the EAR).

(vii) Governments and international organizations (GOV) (see § 740.11 of the EAR).

(viii) Gift parcels and humanitarian donations (GFT) (see § 740.12 of the EAR).

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(ix) Items in transit (TMP) from Canada through the U.S. (see § 740.9(b)(1)(iv) of the EAR).

(x) Aircraft and vessels (AVS) for certain aircraft on temporary sojourn (see § 740.15(a) of the EAR).

(xi) Permissive reexports of certain spare parts in foreign-made equipment (see § 740.16(h) of the EAR).

(2) [Reserved]

(b) *Licensing policy.* Items requiring a license are subject to a general policy of denial, except as follows:

(1) *Medicines, medical supplies, instruments and equipment.* Applications to export medicines, medical supplies, instruments and equipment will generally be approved, except:

(i) To the extent restrictions would be permitted under section 5(m) of the Export Administration Act of 1979, as amended (EAA), or section 203(b)(2) of the International Emergency Economic Powers Act;

(ii) If there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(iii) If there is a reasonable likelihood that the item to be exported will be reexported;

(iv) If the item to be exported could be used in the production of any biotechnological product; or

(v) If it is determined that the United States government is unable to verify, by on-site inspection or other means, that the item to be exported will be used for the purpose for which it was intended and only for the use and benefit of the Cuban people, but this exception shall not apply to donations of medicines for humanitarian purposes to a nongovernmental organization in Cuba.

(2) Telecommunications commodities may be authorized on a case-by-case basis, provided the commodities are part of an FCC-approved project and are necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) Exports from third countries to Cuba of non-strategic foreign-made products that contain an insubstantial proportion of U.S.-origin materials, parts, or components will generally be considered favorably on a case-by-case

basis, provided all of the following conditions are satisfied:

(i) The local law requires, or policy favors, trade with Cuba;

(ii) The U.S.-origin content does not exceed 20 percent of the value of the product to be exported from the third country. Requests where the U.S.-origin parts, components, or materials represent more than 20 percent by value of the foreign-made product will generally be denied. See Supplement No. 2 to part 734 of the EAR for instructions on how to calculate value; and

(iii) You are not a U.S.-owned or -controlled entity in a third country as defined by OFAC regulations, 31 CFR part 515, or you are a U.S.-owned or controlled entity in a third country and one or more of the following situations applies:

(A) You have a contract for the proposed export that was entered into prior to October 23, 1992.

(B) Your transaction involves the export of foreign-produced medicine, or medical supplies, instruments, or equipment incorporating U.S.-origin parts, components or materials, in which case the application will be reviewed according to the provisions of paragraph (b)(1) of this section.

(C) Your transaction is for the export of foreign-produced telecommunications commodities incorporating U.S.-origin parts, components and materials, in which case the application will be reviewed under the licensing policy set forth in paragraph (b)(2) of this section.

(D) Your transaction is for the export of donated food to individuals or non-governmental organizations in Cuba and does not qualify for the humanitarian License Exception.

(4) Applications for licenses may be approved, on a case-by-case basis, for certain exports to Cuba intended to provide support for the Cuban people, as follows:

(i) Applications for licenses for exports of certain commodities and software may be approved to human rights organizations, or to individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba when such exports do not give rise to U.S. national security or counter-ter-

rorism concerns. Examples of such commodities include fax machines, copiers, computers (e.g., 486-level/CTP of 24.8 MTOPS or less), business/office software, document scanning equipment, printers, typewriters, and other office or office communications equipment. Applicants may donate or sell the commodities or software to be exported. Reexport to other end-users or end-uses is not authorized.

(ii) Commodities and software may be approved for export to U.S. news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. In addition to the examples of commodities and software listed in paragraph (b)(4)(i) of this section, certain telecommunications equipment necessary for the operation of news organizations (e.g., 33M bit/s data signaling rate or less) may be approved for export to U.S. news bureaus.

(iii) Exports of food (both solids and liquids) and agricultural commodities may be approved, on case-by-case basis, for use by independent non-government entities in Cuba. Such entities may not be controlled, owned or operated by the Cuban government. Applicants must demonstrate on the license application in Block 24, Additional Information, that the prospective class or classes of end-users are independent from the Cuban government.

(A) Agricultural commodities that will be considered for approval include, but are not limited to, insecticides, herbicides, pesticides, seeds and fertilizer. Agricultural equipment is not eligible under this paragraph (b)(4)(iii) for sale to Cuba.

(B) For purposes of this paragraph (b), independent non-government entities include, but are not limited to, religious groups, private farmers, and private sector undertakings such as family restaurants.

(c) Cuba has been designated by the Secretary of State as a country whose government has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(d) *Related controls.* OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever

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located, involving transactions with Cuba or any specially designated Cuban national, as provided in 31 CFR part 515.

[61 FR 12802, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 9364, Mar. 3, 1997; 62 FR 25459, May 9, 1997; 64 FR 25808, May 13, 1999]

§ 746.3 Iraq.

(a) *License requirements.* OFAC administers an embargo against Iraq under the authority of the International Emergency Economic Powers Act of 1977, as amended, and the United Nations Participation Act of 1945, as amended, and in conformance with United Nations Security Council Resolutions. The applicable OFAC regulations, the Iraqi Sanctions Regulations, are found in 31 CFR part 575. You should consult with OFAC for authorization to export or reexport items subject to U.S. jurisdiction to Iraq, or to any entity owned or controlled by, or specially designated as acting for or on behalf of, the Government of Iraq. Under the EAR, you need a license to export or reexport to Iraq any item on the CCL containing a CB Column 1, CB Column 2, CB Column 3, NP Column 1, NP Column 2, NS Column 1, NS Column 2, MT Column 1, RS Column 1, RS Column 2, CC Column 1, CC Column 2, CC Column 3 in the Country Chart Column of the License Requirements section of an ECCN, or classified under ECCNs 1C980, 1C981, 1C982, 1C983, 1C984, 5A980, 0A980, and 0A983; however, to avoid duplication, an authorization from OFAC constitutes authorization under the EAR, and no separate BXA authorization is necessary. Except as noted in § 746.3(a)(1) of this part, you may not use any BXA License Exception or other BXA authorization to export or reexport to Iraq.

(1) *License Exceptions.* You may export or reexport without a license if your transaction meets all the applicable terms and conditions of one of the following License Exceptions. Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) *Baggage (BAG)* (see § 740.14 of the EAR).

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(ii) Governments and international organizations (GOV) (see § 740.11 of the EAR).

(2) *Exports for the official use of the United Nations, its personnel or agencies (excluding its relief or developmental agencies).* You must consult with OFAC to determine what transactions are eligible.

(b) Iraq has been designated by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(c) *Related controls.* OFAC maintains controls on the activities of U.S. persons, wherever located, involving transactions with Iraq or any specially designated Iraqi national, as provided in 31 CFR part 575.

[61 FR 12806, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 25460, May 9, 1997]

§ 746.4 Libya.

(a) *Introduction.* The Department of the Treasury and the Department of Commerce maintain comprehensive controls on exports and reexports to Libya. OFAC maintains comprehensive controls on exports and transshipments to Libya under the Libyan Sanctions Regulations (31 CFR part 550). To avoid duplicate licensing procedures, OFAC and BXA have allocated licensing responsibility as follows: OFAC licenses direct exports and transshipments to Libya; BXA licenses reexports, exports of foreign-manufactured items containing U.S.-origin parts, components or materials, and exports of foreign-produced direct product of U.S. technology or software. Issuance of an OFAC license also constitutes authorization under the EAR, and no license from BXA is necessary. Exports and reexports subject to the EAR that are not subject to the Libyan Sanctions Regulations continue to require authorization from BXA.

(b) *License requirements.*

(1) *Exports.* OFAC and BXA both require a license for virtually all exports (including transshipments) to Libya. Except as noted in paragraph (b) of this section or specified in OFAC regulation, you may not use any BXA License Exception or other BXA authorization