

information or informational materials, or to the provision of marketing and business consulting services by a person subject to the jurisdiction of the United States. Such prohibited transactions include, without limitation, payment of advances for information or informational materials not yet created and completed, provision of services to market, produce or co-produce, create or assist in the creation of information or informational materials, and payment or royalties to a designated national with respect to income received for enhancements or alterations made by persons subject to the jurisdiction of the United States to information or informational materials imported from a designated national.

(d) This section does not authorize transactions incident to the exportation of restricted technical data as defined in section 799 of the Export Administration Regulations, 15 CFR parts 768-799, or to the exportation of goods for use in the transmission of any data. The exportation of such goods to designated foreign countries is prohibited, as provided in § 500.201 of this part and § 785.1 of the Export Administration Regulations.

*Example #1:* A U.S. publisher ships 500 copies of a book to Vietnam directly from San Francisco aboard a chartered aircraft, and receives payment by means of a letter of credit issued by a Vietnamese bank and confirmed by an American bank. These are permissible transactions under this section.

*Example #2:* A Vietnamese party exports a single master copy of a Vietnamese motion picture to a U.S. party and licenses the U.S. party to duplicate, distribute, show and exploit in the United States the Vietnamese film in any medium, including home video distribution, for five years, with the Vietnamese party receiving 40% of the net income. All transactions relating to the activities described in this example are authorized under this section or § 500.550.

*Example #3:* A U.S. recording company proposes to contract with a Vietnamese musician to create certain musical compositions, and to advance royalties of \$10,000 to the musician. The music written in Vietnam is to be recorded in a studio that the recording company owns in the Bahamas. These are all prohibited transactions. The U.S. party is prohibited under § 500.201 from contracting for the Vietnamese musician's services, from transferring \$10,000 to Vietnam to pay for those services, and from providing the Vietnamese with production services through the

use of its studio in the Bahamas. No informational materials are in being at the time of these proposed transactions. However, the U.S. recording company may contract to purchase and import preexisting recordings by the Vietnamese musician, or to copy the recordings in the United States and pay negotiated royalties to Vietnam under this section or § 500.550.

*Example #4:* A Vietnamese party enters into a subpublication agreement licensing a U.S. party to print and publish copies of a musical composition and to sub-license rights of public performance, adaptation, and arrangement of the musical composition, with payment to be a percentage of income received. All transactions related to the activities described in this example are authorized under this section and § 500.550, except for adaptation and arrangement, which constitute artistic enhancement of the Vietnamese composition. Payment to the Vietnamese party may not reflect income received as a result of these enhancements.

[54 FR 5231, Feb. 2, 1989, as amended at 60 FR 8934, Feb. 16, 1995]

### Subpart C—General Definitions

#### § 500.301 Foreign country.

The term *foreign country* also includes, but not by way of limitation:

(a) The state and the government of any such territory on or after the "effective date" as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion possession or place subject to the jurisdiction thereof,

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which on the "effective date" constituted such foreign country,

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the "effective date", acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing, and

(d) Any territory which on or since the "effective date" is controlled or occupied by the military, naval or police

forces or other authority of such foreign country.

**§ 500.302 National.**

(a) The term *national* shall include:

(1) A subject or citizen of a country or any person who has been domiciled in or a permanent resident of that country at any time on or since the “effective date,” except persons who were resident or domiciled there in the service of the U.S. Government.

(2) Any partnership, association, corporation, or other organization, organized under the laws of, or which on or since the “effective date” had or has had its principal place of business in a foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, a foreign country and/or one or more nationals thereof as defined in this section.

(3) Any person to the extent that such person is, or has been, since the “effective date” acting or purporting to act directly or indirectly for the benefit or on behalf of any national of a foreign country.

(4) Any other person who there is reasonable cause to believe is a “national” as defined in this section.

(b) The Secretary of the Treasury retains full power to determine that any person is or shall be deemed to be a “national” within the meaning of this section, and to specify the foreign country of which such person is or shall be deemed to be a national.

[17 FR 5343, June 12, 1952, as amended at 50 FR 27436, July 3, 1985]

**§ 500.303 Nationals of more than one foreign country.**

(a) Any person who by virtue of any provision in this chapter is a national of more than one foreign country shall be deemed to be a national of each of such foreign countries.

(b) In any case in which a person is a national of two or more designated foreign countries, a license or authorization with respect to nationals of one of such designated foreign countries shall not be deemed to apply to such person

unless a license or authorization of equal or greater scope is outstanding with respect to nationals of each other designated foreign country of which such person is a national.

(c) In any case in which the combined interests of two or more designated foreign countries and/or nationals thereof are sufficient in the aggregate to constitute control or ownership of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries.

**§ 500.305 Designated national.**

The term *designated national* shall mean any country designated in § 500.201 and any national thereof including any person who is a specially designated national.

**§ 500.306 Specially designated national.**

(a) The term *specially designated national* shall mean:

(1) Any person who is determined by the Secretary of the Treasury to be a specially designated national,

(2) Any person who on or since the “effective date” has acted for or on behalf of the Government or authorities exercising control over any designated foreign country, or

(3) Any partnership, association, corporation or other organization which on or since the “effective date” has been owned or controlled directly or indirectly by the Government or authorities exercising control over any designated foreign country or by any specially designated national.

(b) [Reserved]

NOTE TO § 500.306: Please refer to the appendices at the end of this chapter for listings of persons designated pursuant to this part. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking