

## § 740.16

and related commodities that qualify as ship or plane stores as described in this License Exception must be exported under the short supply License Exception SPR (see § 754.2(h) of the EAR.)

- (i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;
- (ii) Medical and surgical supplies;
- (iii) Food stores;
- (iv) Slop chest articles;
- (v) Saloon stores or supplies.

(c) *Shipments to U.S. or Canadian vessels, planes and airline installations or agents*—(1) *Exports to vessels or planes of U.S. or Canadian registry.* Export may be made of the commodities set forth in paragraph (c)(3) of this section, for use by or on a specific vessel or plane of U.S. or Canadian registry located at any seaport or airport outside the United States or Canada except a port in Cuba or Country Group D:1 (excluding the PRC and Romania), (see Supplement No. 1 to part 740) provided that such commodities are all of the following:<sup>6</sup>

- (i) Ordered by the person in command or the owner or agent of the vessel or plane to which they are consigned;
- (ii) Intended to be used or consumed on board such vessel or plane and necessary for its proper operation;
- (iii) In usual and reasonable kinds and quantities during times of extreme need; and
- (iv) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is not required when any of the commodities, other than fuel, is exported by U.S. airlines to their own aircraft abroad for their use.

(2) *Exports to U.S. or Canadian airline's installation or agent.* Exports of the commodities set forth in paragraph (c)(3) of this section, except fuel, may be made to a U.S. or Canadian airline's<sup>7</sup> installation or agent in any foreign destination except Cuba or Country Group D:1 (excluding the PRC and Romania), (see Supplement No. 1 to

<sup>6</sup>Where a validated license is required, see §§ 748.2 and 748.4(g) of the EAR.

<sup>7</sup>See Part 772 of the EAR for definitions of United States and Canadian airlines.

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part 740) provided such commodities are all of the following:

- (i) Ordered by a U.S. or Canadian airline and consigned to its own installation or agent abroad;
  - (ii) Intended for maintenance, repair, or operation of aircraft registered in either the United States or Canada, and necessary for the aircraft's proper operation, except where such aircraft is located in, or owned, operated or controlled by, or leased or chartered to, Cuba or Country Group D:1 (excluding the PRC) (see Supplement No. 1 to part 740) or a national of such country;
  - (iii) In usual and reasonable kinds and quantities; and
  - (iv) Shipped as cargo for which a Shipper's Export Declaration (SED) is filed with the carrier, except that an SED is not required when any of these commodities is exported by U.S. airlines to their own installations and agents abroad for use in their aircraft operations.
- (3) *Applicable commodities.* This paragraph (c) applies to the following commodities, subject to the provisions in paragraph (c)(1) and (c)(2) of this section:

NOTE TO PARAGRAPH (C)(3) OF THIS SECTION: Fuel and related commodities for shipment to vessels or planes of U.S. or Canadian registry as described in this License Exception must be shipped under the short supply License Exception SPR (see § 754.2(h) of the EAR);

- (i) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements;
- (ii) Medical and surgical supplies;
- (iii) Food stores;
- (iv) Slop chest articles;
- (v) Saloon stores or supplies; and
- (vi) Equipment and spare parts.

[61 FR 12678, Mar. 25, 1996. Redesignated and amended at 61 FR 64274, 64283, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996; 65 FR 38150, June 19, 2000; 66 FR 42110, Aug. 10, 2001]

### § 740.16 Additional permissive reexports (APR).

This License Exception allows the following reexports:

- (a) *Reexports from Country Group A:1 and cooperating countries.* Reexports may be made from Country Group A:1

or from cooperating countries, provided that:

(1) The reexport is made in accordance with the conditions of an export authorization from the government of the reexporting country;

(2) The commodities being reexported are not controlled for NP, CB, MT, SI, or CC reasons; and

(3) The reexport is destined to *either*:

(i) A country in Country Group B *that is not also included in Country Group D:2, D:3, or D:4*; Cambodia; or Laos; and the commodity being reexported is both controlled for national security reasons and not controlled for export to Country Group A:1; or

(ii) A country in Country Group D:1 (National Security) (see Supplement No. 1 to part 740), other than Cambodia, Laos, or North Korea and the commodity being reexported is controlled for national security reasons.

(b) *Reexports to and among Country Group A:1 and cooperating countries.* Reexports may be made to and among Country Group A:1 and cooperating countries, provided that eligible commodities are for use or consumption within a Country Group A:1 (see Supplement No. 1 to part 740) or cooperating country, or for reexport from such country in accordance with other provisions of the EAR. All commodities are eligible except those controlled for nuclear nonproliferation reasons or missile technology reasons.

(c) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding license may be made under the terms of that license. Such reexports shall be recorded in the same manner as exports are recorded, regardless of whether the license is partially or wholly used for reexport purposes. (See part 762 of the EAR for recordkeeping requirements.)

(d) Reexports of any item from Canada that, at the time of reexport, may be exported directly from the United States to the new country of destination under any License Exception.

(e) Reexports (return) to the United States of any item. If the reexporting party requests written authorization because the government of the country from which the reexport will take place requires formal U.S. Government ap-

proval, such authorization will generally be given.

(f) Reexports from a foreign destination to Canada of any item if the item could be exported to Canada without a license.

(g) Reexports between Switzerland and Liechtenstein.

(h) Shipments of foreign-made products that incorporate U.S.-origin components may be accompanied by U.S.-origin controlled spare parts, provided that they do not exceed 10 percent of the value of the foreign-made product, subject to the restrictions in § 734.4 of the EAR.

(i) Reexports to Sudan of items controlled by ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. In addition, items in these ECCNs are not counted as controlled U.S. content for purposes of determining license requirements for U.S. parts, components, and materials incorporated in foreign-made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license.

(j) Reexports of items controlled by NP Column 1 (see Supplement No. 1 to part 774 of the EAR) to, among, and from countries described in Country Group A:4 (see Supplement No. 1 to part 740), except:

(1) Reexports from countries that are not identified in Country Group A:1 of items that are controlled for NS reasons to destinations in Country Group D:1; and

(2) Reexports to destinations in Country Group E:2 and Country Group D:2.

[61 FR 12768, Mar. 25, 1996. Redesignated at 61 FR 64274, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996, and amended at 62 FR 25458, May 9, 1997; 63 FR 42228, Aug. 7, 1998; 65 FR 38150, June 19, 2000; 65 FR 60855, Oct. 13, 2000; 67 FR 10614, Mar. 8, 2002]

#### § 740.17 Encryption commodities and software (ENC).

License Exception ENC authorizes the export and reexport of encryption items controlled under ECCN 5A002,