

§ 740.11 Governments, international organizations, and international inspections under the Chemical Weapons Convention (GOV).

This License Exception authorizes exports and reexports for international nuclear safeguards; U.S. government agencies or personnel, and agencies of cooperating governments; and international inspections under the Chemical Weapons Convention.

(a) *International safeguards—(1) Scope.* You may export and reexport commodities or software to the International Atomic Energy Agency (IAEA) and the European Atomic Energy Community (Euratom), and reexports by IAEA and Euratom for official international safeguard use, as follows:

(i) Commodities or software consigned to the IAEA at its headquarters in Vienna, Austria, or field offices in Toronto, Ontario, Canada or Tokyo, Japan for official international safeguards use. The IAEA is an international organization that establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, equipment, and material are not diverted from peaceful purposes to non-peaceful purposes.

(ii) Commodities or software consigned to the Euratom Safeguards Directorate in Luxembourg, Luxembourg for official international safeguards use. Euratom is an international organization of European countries with headquarters in Luxembourg. Euratom establishes and administers safeguards designed to ensure that special nuclear materials and other related nuclear facilities, equipment, and material are not diverted from peaceful purposes to non-peaceful purposes.

(iii) Commodities consigned to IAEA or Euratom may be reexported to any country for IAEA or Euratom international safeguards use provided that IAEA or Euratom maintains control of or otherwise safeguards the commodities and returns the commodities to the locations described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section when they become obsolete, are no longer required, or are replaced.

(iv) Commodity or software shipments may be made by commercial companies under direct contract with

IAEA or Euratom, or by Department of Energy National Laboratories as directed by the Department of State or the Department of Energy.

(v) The monitoring functions of IAEA and Euratom are not subject to the restrictions on prohibited safeguarded nuclear activities described in § 744.2(a)(3) of the EAR.

(vi) When commodities or software originally consigned to IAEA or Euratom are no longer in IAEA or Euratom official safeguards use, such commodities may only be disposed of in accordance with the regulations in the EAR.

(2) The following items controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) identified on the Commerce Control List may not be exported or re-exported under this License Exception to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom: 1C001, 5A001.b.5, 6A001.a.1.b.1 object detection and location systems having a sound pressure level exceeding 210 dB (reference 1 μ Pa at 1 m) for equipment with an operating frequency in the band from 30 Hz to 2 kHz inclusive, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.e, 6A002.a.1.c, 6A008.l.3, 6B008, 8A001.b, 8A001.d, 8A002.o.3.b; and

(i) “Composite” structures or laminates controlled by 1A002.a, having an organic “matrix” and made from materials listed under 1C010.c or 1C010.d; and

(ii) “Digital” computers controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS; and

(iii) “Electronic assemblies” controlled by 4A003.c and capable of enhancing performance by aggregation of “computing elements” so that the CTP of the aggregation exceeds 190,000 MTOPS; and

NOTE TO PARAGRAPH 740.11(a)(2)(iii): Nationals of countries in Country Group E:1 may not physically or computationally access computers that have been enhanced by “electronic assemblies”, which have been exported or reexported under License Exception GOV and have been used to enhance

such computers by aggregation of “computing elements” so that the CTP of the aggregation exceeds the CTP parameter set forth in ECCN 4A003.b. of the Commerce Control List in Supplement No. 1 to part 774 of the EAR, without prior authorization from the Bureau of Industry and Security.

(iv) Processing equipment controlled by 6A001.a.2.c and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Processing equipment, specially designed for real time application bottom or bay cable systems controlled; by 6A001.a.2.f; and

(vi) “Software”, as follows:

(A) Controlled by 4D001, specially designed for the “development” or “production” of “digital computers”, controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS; and

(B) Controlled by 5D001.a, specially designed for the “development” or “production” of equipment, functions or features controlled by 5A001.b.5; and

(C) Controlled by 6D001 for items controlled by 6A008.1.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the “development” or “production” of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed or modified for the “development” of “technology” controlled by 9E003.a.1 or 9E003.a.3.a.

(3) No encryption items controlled for EI reasons under ECCNs 5A002, 5D002, or 5E002 may be exported under the provisions of this paragraph (a).

(b) *Governments*—(1) *Scope*. The provisions of paragraph (b) authorize exports and reexports of the items listed in paragraph (b)(2) of this section to personnel and agencies of the U.S. Government or agencies of cooperating governments.

(2) *Eligibility*—(i) *Items for personal use by personnel and agencies of the U.S. Government*. This provision is available for items in quantities sufficient only for the personal use of members of the U.S. Armed Forces or civilian personnel of the U.S. Government (including U.S. representatives to public international organizations), and their immediate families and servants. Items for personal use include household ef-

fects, food, beverages, and other daily necessities.

(ii) *Items for official use by personnel and agencies of the U.S. Government*. This provision is available for items consigned to and for the official use of any agency of the U.S. Government.

(iii) (A) *Items for official use within national territory by agencies of cooperating governments*. This License Exception is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except items described in paragraph (a) to Supplement No. 1 of this section:

(B) *Reporting requirements*. See § 743.1 of the EAR for reporting requirements for exports of certain items under this paragraph (b)(2)(iii).

(iv) (A) *Diplomatic and consular missions of a cooperating government*. This License Exception is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except items described in paragraph (b) of Supplement No. 1 of this section.

(B) *Reporting requirements*. See § 743.1 of the EAR for reporting requirements for exports of certain items under this paragraph (b)(2)(iv).

(3) *Definitions*. (i) *Agency of the U.S. Government* includes all civilian and military departments, branches, missions, government-owned corporations, and other agencies of the U.S. Government, but does not include such national agencies as the American Red Cross or international organizations in which the United States participates such as the Organization of American States. Therefore, shipments may not be made to these non-government national or international agencies, except as provided in paragraph (b)(2)(i) of this section for U.S. representatives to these organizations.

(ii) *Agency of a cooperating government* includes all civilian and military departments, branches, missions, and other governmental agencies of a cooperating national government. Cooperating governments are the national governments of countries listed in Country Group A:1 (see Supplement

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No. 1 to part 740) and the national governments of Argentina, Austria, Finland, Hong Kong, Ireland, Korea (Republic of), New Zealand, Singapore, Sweden, Switzerland, and Taiwan.

(c) *International inspections under the Chemical Weapons Convention (CWC or Convention).*

(1) The provisions of this paragraph (c) authorize exports and reexports to the Organization for the Prohibition of Chemical Weapons (OPCW) and exports and reexports by the OPCW for official international inspection and verification use under the terms of the Convention. The OPCW is an international organization that establishes and administers an inspection and verification regime under the Convention designed to ensure that certain chemicals and related facilities are not diverted from peaceful purposes to non-peaceful purposes. These provisions authorize exports and reexports for official OPCW use of the following:

(i) Commodities and software consigned to the OPCW at its headquarters in The Hague for official international OPCW use for the monitoring and inspection functions set forth in the Convention, and technology relating to the maintenance, repair, and operation of such commodities and software. The OPCW must maintain effective control of such commodities, software and technology.

(ii) Controlled technology relating to the training of the OPCW inspectorate.

(iii) Controlled technology relating to a CWC inspection site, including technology released as a result of:

(A) Visual inspection of U.S.-origin equipment or facilities by foreign nationals of the inspection team;

(B) Oral communication of controlled technology to foreign nationals of the inspection team in the U.S. or abroad; and

(C) The application to situations abroad of personal knowledge or technical experience acquired in the U.S.

(2) *Exclusions.* The following items may not be exported or reexported under the provisions of this paragraph (c):

(i) Computers with a Composite Theoretical Performance (CTP) greater than 190,000 MTOPS. In addition, computers eligible for this provision of Li-

cence Exception GOV may not be accessed either physically or computationally by nationals of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria. No MTOPS limit applies to exports or reexports to countries in Tier 1 (see § 740.7(b)(1) of the EAR).

(ii) Inspection samples collected in the U.S. pursuant to the Convention; and

(iii) Commodities and software that are no longer in OPCW official use. Such items must be disposed of in accordance with the EAR.

(3) *Confidentiality.* The application of the provisions of this paragraph (c) is subject to the condition that the confidentiality of business information is strictly protected in accordance with applicable provisions of the EAR and other U.S. laws regarding the use and retransfer of U.S. goods and services.

SUPPLEMENT NO. 1 TO § 740.11—ADDITIONAL RESTRICTIONS ON USE OF LICENSE EXCEPTION GOV

(a) *Items for official use within national territory by agencies of a Cooperating Government.* License Exception GOV is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except:

(1) Items identified on the Commerce Control List as controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) as follows for export or reexport to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: 1C001, 5A001.b.5, 6A001.a.1.b.1 object detection and location systems having a sound pressure level exceeding 210 dB (reference 1 µPa at 1 m) for equipment with an operating frequency in the band from 30 Hz to 2 kHz inclusive, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.e, 6A002.a.1.c, 6A008.1.3, 6B008, 8A001.b, 8A001.d, 8A002.o.3.b; and

(i) “Composite” structures or laminates controlled by 1A002.a, having an organic “matrix” and made from materials listed under 1C010.c or 1C010.d; and

(ii)–(iii) [Reserved]

(iv) Processing equipment controlled by 6A001.a.2.c and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Processing equipment, specially designed for real time application bottom or bay cable systems controlled by 6A001.a.2.f;

and

(vi) “Software”, as follows:

(A) Controlled by 4D001, specially designed for the “development” or “production” of “digital computers” controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS; and

(B) Controlled by 5D001.a, specially designed for the “development” or “production” of equipment, functions or features controlled by 5A001.b.5; and

(C) Controlled by 6D001 for items controlled by 6A008.1.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the “development” or “production” of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

(G) Controlled by 9D001, specially designed or modified for the “development” of “technology” controlled by 9E003.a.1 or 9E003.a.3.a.

(vii) “Technology”, as follows:

(A) Controlled by 1E001 for items controlled by 1A002.a as described by paragraph (a)(1)(i) of this Supplement, or 1C001; and

(B) Controlled by 4E001, specially designed for the “development” or “production” of “digital computers” controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS; and

(C) Controlled by 5E001.a for the “development” or “production” of digitally controlled radio receivers controlled by 5A001.b.5; or 5D001.a for “software” specially designed for the “development” or “production” of digitally controlled radio receivers controlled by 5A001.b.5; and

(D) Controlled by 6E001 for the “development” of equipment or “software” in 6A001.a.1.b.1, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.e, 6A001.a.2.f, 6A002.a.1.c, 6A008.1.3, or 6B008, as described in paragraph (a)(1) of this Supplement; and

(E) Controlled by 6E002 for the “production” of equipment controlled by 6A001.a.1.b.1, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.e, 6A001.a.2.f, 6A002.a.1.c, 6A008.1.3, or 6B008, as described in paragraph (a)(1) of this Supplement; and

(F) Controlled by 8E001 for items controlled by 8A001.b, 8A002.o.3.b, or 8A001.d; and

(G) Controlled by 9E001 for items controlled by 9D001; and

(H) [Reserved]

(I) Controlled by 9E003.a.1; and

(J) Controlled by 9E003.a.3.a;

(2) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002.a.1.c, 6E001 technology ac-

cording to the General Technology Note for the “development” of equipment in 6A002.a.1.c, and 6E002 technology according to the General Technology Note for the “production” of equipment in 6A002.a.1.c; or

(4) Encryption items controlled for EI reasons as described in the Commerce Control List.

(b) *Diplomatic and consular missions of a cooperating government.* License Exception GOV is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except:

(1) Items identified on the Commerce Control List as controlled for national security (NS) reasons under Export Control Classification Numbers (ECCNs) as follows for export or reexport to destinations other than Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, or the United Kingdom: 1C001, 5A001.b.5, 6A001.a.1.b.1 object detection and location systems having a sound pressure level exceeding 210 dB (reference 1 µPa at 1 m) for equipment with an operating frequency in the band from 30 Hz to 2 kHz inclusive, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.e, 6A002.a.1.c, 6A008.1.3, 6B008, 8A001.b, 8A001.d, 8A002.o.3.b; and

(i) “Composite” structures or laminates controlled by 1A002.a, having an organic “matrix” and made from materials listed under 1C010.c or 1C010.d; and

(ii)–(iii) [Reserved]

(iv) Processing equipment controlled by 6A001.a.2.c and specially designed for real time application with towed acoustic hydrophone arrays; and

(v) Processing equipment, specially designed for real time application bottom or bay cable systems controlled by 6A001.a.2.f; and

(vi) “Software”, as follows:

(A) Controlled by 4D001, specially designed for the “development” or “production” of “digital computers” controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS; and

(B) Controlled by 5D001.a, specially designed for the “development” or “production” of equipment, functions or features controlled by 5A001.b.5; and

(C) Controlled by 6D001 for items controlled by 6A008.1.3 or 6B008; and

(D) Controlled by 6D003.a; and

(E) Controlled by 7D003.a or 7D003.b; and

(F) Controlled by 8D001, specially designed for the “development” or “production” of equipment controlled by 8A001.b, 8A001.d, or 8A002.o.3.b; and

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(G) Controlled by 9D001, specially designed or modified for the "development" of "technology" controlled by 9E003.a.1 or 9E003.a.3.a.

(vii) "Technology", as follows:

(A) Controlled by 1E001 for items controlled by 1A002.a as described by paragraph (a)(1)(i) of this Supplement, or 1C001; and

(B) Controlled by 4E001, specially designed for the "development" or "production" of "digital computers" controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS; and

(C) Controlled by 5E001.a for the "development" or "production" of digitally controlled radio receivers controlled by 5A001.b.5; or 5D001.a for "software" specially designed for the "development" or "production" of digitally controlled radio receivers controlled by 5A001.b.5; and

(D) Controlled by 6E001 for the "development" of equipment or "software" in 6A001.a.1.b.1, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.e, 6A001.a.2.f, 6A002.a.1.c, 6A008.1.3, or 6E008, as described in paragraph (a)(1) of this Supplement; and

(E) Controlled by 6E002 for the "production" of equipment controlled by 6A001.a.1.b.1, 6A001.a.2.a.1, 6A001.a.2.a.2, 6A001.a.2.a.4, 6A001.a.2.a.5, 6A001.a.2.b, 6A001.a.2.c, 6A001.a.2.e, 6A001.a.2.f, 6A002.a.1.c, 6A008.1.3, or 6E008, as described in paragraph (a)(1) of this Supplement; and

(F) Controlled by 8E001 for items controlled by 8A001.b, 8A002.o.3.b, or 8A001.d; and

(G) Controlled by 9E001 for items controlled by 9D001; and

(H) [Reserved]

(I) Controlled by 9E003.a.1; and

(J) Controlled by 9E003.a.3.a;

(2) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002.a.1.c, 6E001 technology according to the General Technology Note for the "development" of equipment in 6A002.a.1.c, and 6E002 technology according to the General Technology Note for the "production" of equipment in 6A002.a.1.c; or

(4) Encryption items controlled for EI reasons as described in the Commerce Control List.

[61 FR 64281, Dec. 4, 1996. Redesignated at 61 FR 68579, Dec. 30, 1996, as amended at 61 FR 68580, Dec. 30, 1996; 62 FR 25457, May 9, 1997; 63 FR 2456, Jan. 15, 1998; 63 FR 42228, Aug. 7, 1998; 63 FR 50522, Sept. 22, 1998; 63 FR 55019, Oct. 14, 1998; 64 FR 27141, May 18, 1999; 64 FR 40108, July 23, 1999; 64 FR 42012, Aug. 3, 1999; 65 FR 43132, July 12, 2000; 65 FR 60855, Oct. 13, 2000; 67 FR 10614, 10610, Mar. 8, 2002; 68 FR 10589, 10590, Mar. 5, 2003; 68 FR 68979, Dec. 10, 2003]

§ 740.12 Gift parcels and humanitarian donations (GFT).

(a) *Gift parcels*—(1) *Scope.* The provisions of paragraph (a) authorize exports and reexports of gift parcels by an individual (donor) addressed to an individual, or a religious, charitable or educational organization (donee) located in any destination for the use of the donee or the donee's immediate family (and not for resale). The gift parcel must be provided free of charge to the donee. However, payment by the donee of any handling charges or of any fees levied by the importing country (e.g., import duties, taxes, etc.) is not considered to be a cost to the donee for purposes of this definition of "gift parcel."

NOTE TO PARAGRAPH (a) OF THIS SECTION: A gift parcel, within the context of this paragraph (a), does not include multiple parcels exported in a single shipment for delivery to individuals residing in a foreign country. Such multiple gift parcels, if subject to the General Prohibitions described in § 734.2(b) of the EAR, must be licensed by BIS. (See Supplement No. 2 to part 748 of the EAR for licensing of multiple gift parcels).

(2) *Commodity, value and other limitations*—(i) *Eligible commodities.* The eligible commodities are as follows:

(A) The commodity must not be controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP) (see Commerce Control List, part 774 of the EAR); and