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or contractors for banking or financial operations;

(vi) Items that incorporate components limited to providing short-range wireless encryption functions;

(vii) Retail operating systems, or desktop applications (e.g. e-mail, browsers, games, word processing, data base, financial applications or utilities) designed for, bundled with, or pre-loaded on single CPU computers, laptops or hand-held devices;

(viii) Client Internet appliance and client wireless LAN cards;

(ix) Foreign products developed by bundling or compiling of source code.

(5) *Submission requirements.* You must submit the reports required under this section, semi-annually, to BIS, unless otherwise provided in this paragraph (e)(5). For exports occurring between January 1 and June 30, a report is due no later than August 1 of that year. For exports occurring between July 1 and December 31, a report is due no later than February 1 the following year. These reports must be provided in electronic form to BIS. Recommended file formats for electronic submission include spreadsheets, tabular text or structured text. Exporters may request other reporting arrangements with BIS to better reflect their business models. Reports may be sent electronically to BIS at crypt@bis.doc.gov (with a copy to the ENC Encryption Request Coordinator at enc@ncsc.mil), or disks and CDs containing the reports may be mailed to the following addresses:

(i) Department of Commerce, Bureau of Industry and Security, Office of Strategic Trade and Foreign Policy Controls, 14th Street and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230, Attn: Encryption Reports.

(ii) A copy of the report should be sent to: Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6131, Ft. Meade, MD 20755-6000.

[67 FR 38862, June 6, 2002, as amended at 68 FR 35785, June 17, 2003]

§ 740.18 **Agricultural commodities (AGR).**

(a) *Eligibility requirements.* License Exception AGR permits the export of agricultural commodities to Cuba, as well as the reexport of U.S. origin agricultural commodities to Cuba, pro-

vided your transaction meets *all* of the following criteria:

(1) The commodity meets the definition of "agricultural commodities" in part 772 of the EAR;

(2) The commodity is EAR99. You must have an official commodity classification of EAR99 from BIS for fertilizers, western red cedar and live horses before you submit a notification under this license exception. See § 748.3 of the EAR for information on how to submit a commodity classification request;

(3) The export or reexport is made pursuant to a written contract, except for donations and commercial samples which are not subject to this contract requirement;

(4) The export or reexport is made within 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required). In the case of multiple partial shipments, all such shipments must be made within the 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required); and

(5) You notify BIS prior to exporting or reexporting according to the procedures set forth in paragraph (c) of this section. If you intend to engage in multiple shipments during the one-year period after the signing of the contract, you need only notify BIS prior to the first shipment.

(b) *Restrictions.* (1) No export or reexport to any individual or entity designated as a Specially Designated Terrorist or Foreign Terrorist Organization may be made under License Exception AGR (see part 744 of the EAR).

(2) No export or reexport to or for use in biological, chemical, nuclear warfare or missile proliferation activities may be made under License Exception AGR (see part 744 of the EAR).

(3) No U.S.-owned or controlled foreign firm may export from abroad to Cuba a foreign produced agricultural commodity containing more than 10% U.S.-origin content. Such U.S.-owned or controlled foreign firms require a specific license from BIS as well as the Department of the Treasury's Office of Foreign Assets Control (OFAC). Transactions not subject to the EAR (under

10% U.S.-origin content) require a license from OFAC.

(c) *Prior notification.* (1) *General requirement.* You must notify BIS prior to any export or reexport (or prior to the first of multiple shipments) under License Exception AGR.

(2) *Procedures.* You must provide prior notification of exports and reexports under License Exception AGR by submitting a completed Multipurpose Application Form (BIS-748P) or its electronic equivalent. The following blocks must be completed, as appropriate, on the Multipurpose Application Form: Blocks 1, 2, 3, 4, 5 (by marking box 5 "Other"), 14, 16, 17, 18, 19, 21, 22 (a), (e), (f), (g), (h), (i), (j), 23, and 25 according to the instructions described in Supplement No. 1 to part 748 of the EAR. If your commodity is fertilizer, western red cedar or live horses, you must confirm that BIS has previously classified your commodity as EAR99 by placing the Commodity Classification Automatic Tracking System (CCATS) number in block 22(d). BIS will not initiate the registration of an AGR notification unless all requested information on the Multipurpose Application form is complete.

(3) *Action by BIS.* Within two business days of the registration of the AGR notification, BIS will refer the notification for interagency review, or if necessary return the notification without action (e.g., if the information provided is incomplete). Registration is defined as the point at which the notification is entered into BIS's electronic system.

(4) *Review by other departments or agencies.* The Departments of Defense, State, and other agencies, as appropriate, may review the AGR notification. BIS must receive department or agency objections within nine business days of the referral. Unlike the provisions described in §750.4(b) of the EAR, there are no provisions for stopping the processing time of the AGR notification. If, within 11 business days after the date of registration, any reviewing agency provides a written objection that the recipient may promote international terrorism or the transaction raises nonproliferation concerns, you may not use License Exception AGR. In such cases, BIS will notify you that

a license is required for the export or reexport. BIS will then process the AGR notification as a license application in accordance with the provisions described in §750.4 of the EAR, and the licensing policies set forth in the EAR. At this time, BIS may request additional information. When BIS confirms that no agency has raised an objection within eleven business days (as described in paragraph (c)(5) of this section), you may proceed with the transaction provided that you satisfy all other requirements of License Exception AGR, including the requirement to have a written contract prior to any shipment (unless a donation or commercial sample). (Note that the fact that you have been advised that no agency has objected to the transaction does not exempt you from other licensing requirements under the EAR, such as those based on knowledge of a prohibited end-use or end-user as referenced in general prohibition five (part 736 of the EAR) and set forth in part 744 of the EAR.)

(5) *Status of pending AGR notification requests.* You must contact BIS's System for Tracking Export License Applications ("STELA") at (202) 482-2752 for status of your pending AGR notification. (See §750.5 of the EAR for procedures to access information on STELA.) STELA will provide the date of registration of the AGR notification. If no department or agency objection is raised within 11 business days, STELA will, on the twelfth business day following the date of registration, provide you with confirmation of that fact. You may not proceed with your shipment unless you confirm with STELA that no objection has been raised. BIS will subsequently issue written confirmation to you. If an objection is raised, STELA will indicate that a license is required. The AGR notification will then be processed as a license application. In addition, BIS may provide notice of an objection by telephone, fax, courier service, or other means.

(d) *Donations.* (1) Donations of agricultural commodities are eligible for export and reexport to Cuba under License Exception AGR, provided the transaction meets the requirements

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and procedures of this license exception (except the written contract requirement).

(2) Donations of food items to non-governmental organizations (NGOs) and individuals in Cuba may also be el-

igible for License Exception GFT. See §740.12 for eligibility requirements of gift parcels and humanitarian donations under License Exception GFT.

[66 FR 36681, July 12, 2001]

SUPPLEMENT NO. 1 TO PART 740—COUNTRY GROUPS

COUNTRY GROUP A

Country	[A:1]	Missile technology control regime [A:2]	Australia group [A:3]	Nuclear suppliers group [A:4]
Argentina		X	X	X
Australia	X	X	X	X
Austria ¹		X	X	X
Belarus				X
Belgium	X	X	X	X
Brazil		X		X
Bulgaria			X	X
Canada	X	X	X	X
Cyprus			X	X
Czech Republic		X	X	X
Denmark	X	X	X	X
Finland ¹		X	X	X
France	X	X	X	X
Germany	X	X	X	X
Greece	X	X	X	X
Hong Kong ¹				
Hungary		X	X	X
Iceland		X	X	
Ireland ¹		X	X	X
Italy	X	X	X	X
Japan	X	X	X	X
Kazakhstan				X
Korea, South ¹		X	X	X
Latvia				X
Luxembourg	X	X	X	X
Netherlands	X	X	X	X
New Zealand ¹		X	X	X
Norway	X	X	X	X
Poland		X	X	X
Portugal	X	X	X	X
Romania			X	X
Russia		X		X
Slovakia			X	X
Slovenia				X
South Africa		X		X
Spain	X	X	X	X
Sweden ¹		X	X	X
Switzerland ¹		X	X	X
Turkey	X	X	X	X
Ukraine		X		X
United Kingdom	X	X	X	X
United States	X	X	X	X

¹ Cooperating Countries.

Country Group B

Countries

Afghanistan	Greece	Palau
Algeria	Grenada	Panama
Andorra	Guatemala	Papua New Guinea
Angola	Guinea	Paraguay
Antigua	Guinea-Bissau	Peru
Argentina	Guyana	Philippines
Australia	Haiti	Poland
Austria	Honduras	Portugal
Bahamas	Hong Kong	Qatar
Bahrain	Hungary	Rwanda
Bangladesh	Iceland	Saint Kitts & Nevis
Barbados	India	Saint Lucia
Barbuda	Indonesia	Saint Vincent
Belgium	Ireland	San Marino
Belize	Israel	Sao Tome & Principe
Benin	Italy	Saudi Arabia
Bhutan	Jamaica	Senegal
Bolivia	Japan	Serbia and Montengro
Bosnia & Herzegovina	Jordan	Seychelles
Botswana	Kenya	Sierra Leone
Brazil	Kiribati	Singapore
Brunei	Korea, South	Slovakia
Burkina Faso	Kuwait	Slovenia
Burma	Lebanon	Solomon Islands
Burundi	Lesotho	Somalia
Cameroon	Liberia	South Africa
Canada	Liechtenstein	Spain
Cape Verde	Luxembourg	Sri Lanka
Central African Republic	Macedonia, the Former	Surinam
Chad	Yugoslav Republic of	Swaziland
Chile	Madagascar	Sweden
Colombia	Malawi	Switzerland
Comoros	Malaysia	Taiwan
Congo	Maldives	Tanzania
Costa Rica	Mali	Thailand
Cote d'Ivoire	Malta	Togo
Croatia	Marshall Islands	Tonga
Cyprus	Mauritania	Trinidad & Tobago
Czech Republic	Mauritius	Tunisia
Denmark	Mexico	Turkey
Djibouti	Micronesia, Federated	Tuvalu
Dominica	States of	Uganda
Dominican Republic	Monaco	United Arab Emirates
Ecuador	Morocco	United Kingdom
Egypt	Mozambique	United States
El Salvador	Namibia	Uruguay
Equatorial Guinea	Nauru	Vanuatu
Eritrea	Nepal	Vatican City
Ethiopia	Netherlands	Venezuela
Fiji	New Zealand	Western Sahara
Finland	Nicaragua	Western Samoa
France	Niger	Yemen
Gabon	Nigeria	Zaire
Gambia, The	Norway	Zambia
Germany	Oman	Zimbabwe
Ghana	Pakistan	

EDITORIAL NOTE 1: At 64 FR 60341, Nov. 5, 1999, Supplement No. 1 to part 740 is amended by removing "Serbia and Montenegro" from the list of "Country Group B" countries and by adding in alphabetical order, "Kosovo (Serbian province of)" and "Montenegro". Changes to this illustration are effective Nov. 5, 1999.

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EDITORIAL NOTE 2: At 65 FR 14859, Mar. 20, 2000, Supplement No. 1 to part 740, Country Group B, is amended by revising “Antiqua” to read “Antigua”. Changes to this illustration are effective Mar. 20, 2000.

EDITORIAL NOTE 3: At 66 FR 12847, Mar. 1, 2001, Supplement No. 1 to part 740, Country Group B, was amended by removing “Kosovo (Serbian province of)” and “Montenegro” and by adding “Yugoslavia (Serbia and Montenegro), Federal Republic of”. Changes to this illustration are effective Mar. 1, 2001.

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Country Group C

[Reserved]

• COUNTRY GROUP D

Country	[D: 1] National Security	[D: 2] Nuclear	[D: 3] Chemical & Biological	[D: 4] Missile Technology
Afghanistan			X	
Albania	X			
Algeria				
Andorra				
Angola				
Armenia	X		X	
Azerbaijan	X		X	
Bahrain			X	X
Belarus	X		X	
Bulgaria	X		X	
Burma			X	
Cambodia	X			
China (PRC)	X		X	X ¹
Comoros				
Cuba		X	X	
Djibouti			X	X
Egypt			X	
Estonia	X			
Georgia	X		X	
India		X	X	X ¹
Iran		X	X	X ¹
Iraq		X	X	X
Israel		X	X	X
Jordan			X	X
Kazakhstan	X		X	
Korea, North		X	X	X ¹
Kuwait			X	X
Kyrgyzstan	X		X	
Laos	X			
Latvia	X			
Lebanon			X	X
Libya		X	X	X
Lithuania	X			
Macau	X		X	X
Micronesia, Federated States of				
Moldova	X		X	
Mongolia	X		X	
Oman			X	X
Pakistan		X	X	X ¹
Qatar			X	X
Romania	X			
Russia	X		X	
Saudi Arabia			X	X
Syria			X	X
Taiwan			X	
Tajikistan	X		X	

• COUNTRY GROUP D—Continued

Country	[D: 1] National Security	[D: 2] Nuclear	[D: 3] Chemical & Biological	[D: 4] Missile Technology
Turkmenistan	X		X	
Ukraine	X		X	
United Arab Emirates			X	X
Uzbekistan	X		X	
Vanuatu				
Vietnam	X		X	
Yemen			X	X

¹ Certain Missile Technology projects have been identified in the following countries:
 China—M Series Missiles CSS-2.
 India—Agni, Prithvi, SLV-3 Satellite Launch Vehicle, Augmented Satellite Launch Vehicle (ASLV), Polar Satellite Launch Vehicle (PSLV), Geostationary Satellite Launch Vehicle (GSLV).
 Iran—Surface-to-Surface Missile Project, Scud Development Project.
 Korea, North—No Dong I, Scud Development Project.
 Pakistan—Half Series Missiles.

COUNTRY GROUP E

COUNTRY GROUP E

Country	[E:1] Terrorist sup- porting countries	[E:2] unilateral embar- go ¹
Cuba	X	X
Iran	X	
Iraq	X	
Korea, North	X	
Libya	X	X
Sudan	X	
Syria	X	

- Vitamins
- Water Resources Equipment
- Food
- Agricultural Materials and Machinery Sui-
ted to Small-Scale Farming Operations
- Agricultural Research and Testing Equip-
ment
- Fertilizers
- Fishing Equipment and Supplies Suited to
Small-Scale Fishing Operations
- (b) Food
- Insecticides
- Pesticides
- Seeds
- Small-Scale Irrigation Equipment
- Veterinary Medicines and Supplies
- (c) Clothes and Household Goods
- Bedding
- Clothes
- Cooking Utensils
- Fabric
- Personal Hygiene Items
- Soap-Making Equipment
- Weaving and Sewing Equipment
- (d) Shelter
- Building Materials
- Hand Tools
- (e) Education
- Books
- Individual School Supplies
- School Furniture
- Special Education Supplies and Equipment
for the Handicapped
- (f) Basic Support Equipment and Supplies
Necessary To Operate and Administer the Dona-
tive Program
- Audio-Visual Aids for Training
- Generators
- Office Supplies and Equipment

¹ In addition to the controls of the EAR that the Bureau of Industry and Security administers, note that the Treasury Department's Office of Foreign Assets Control administers:

(a) A *comprehensive embargo* against Cuba, Iran, Iraq, Libya, Sudan, and the Taliban and areas of Afghanistan controlled by the Taliban;

(b) A ban on arms and specified items destined to the National Union for the Total Independence of Angola (UNITA) located in Angola; and

(c) An *embargo against certain individuals and entities*, e.g., Specially Designated Terrorists (SDT). (Note: The Department of State also imposes sanctions on certain individuals and entities, please consult with the Department of State for further information concerning these controls.)

[61 FR 12768, Mar. 25, 1996, as amended at 62 FR 6686, Feb. 12, 1997; 62 FR 25458, May 9, 1997; 62 FR 42048, Aug. 5, 1997; 63 FR 37769, July 14, 1998; 64 FR 28908, May 28, 1999; 65 FR 38151, June 19, 2000; 66 FR 18402, Apr. 9, 2001; 66 FR 42110, Aug. 10, 2001; 66 FR 49524, Sept. 28, 2001; 67 FR 37982, May 31, 2002; 67 FR 55598, Aug. 29, 2002; 68 FR 16146, Apr. 2, 2003; 68 FR 60289, Oct. 22, 2003]

SUPPLEMENT NO. 2 TO PART 740—ITEMS THAT MAY BE DONATED TO MEET BASIC HUMAN NEEDS UNDER THE HUMANITARIAN LICENSE EXCEPTION

(a) Health

- Equipment for the Handicapped
- Hospital Supplies and Equipment
- Laboratory Supplies and Equipment
- Medical Supplies and Devices
- Medicine-Processing Equipment
- Medicines

SUPPLEMENT NO. 3 TO PART 740—LICENSE EXCEPTION ENC COUNTRY GROUP

- Austria
- Australia
- Belgium

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Czech Republic
Denmark
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Poland
Portugal
Spain
Sweden
Switzerland
United Kingdom
[65 FR 62607, Oct. 19, 2000]

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SUPPLEMENT NO. 5 TO PART 742—CHECKLIST ON ENCRYPTION AND OTHER “INFORMATION SECURITY” FUNCTIONS

SUPPLEMENT NO. 6 TO PART 742—GUIDELINES FOR SUBMITTING REVIEW REQUESTS FOR ENCRYPTION ITEMS

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

SOURCE: 61 FR 12786, Mar. 25, 1996, unless otherwise noted.

**PART 742—CONTROL POLICY—CCL
BASED CONTROLS**

Sec.

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- 742.3 Nuclear nonproliferation.
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- 742.6 Regional stability.
- 742.7 Crime control.
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- 742.9 Anti-terrorism: Syria.
- 742.10 Anti-terrorism: Sudan.
- 742.11 Specially designed implements of torture.
- 742.12 High performance computers.
- 742.13 Communications intercepting devices.
- 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.
- 742.15 Encryption items.
- 742.16 [Reserved]
- 742.17 Exports of firearms to OAS member countries.
- 742.18 Chemical Weapons Convention (CWC or Convention).
- 742.19 Anti-terrorism: North Korea.

SUPPLEMENT NO. 1 TO PART 742—NON-PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SUPPLEMENT NO. 2 TO PART 742—ANTI-TERRORISM CONTROLS: IRAN, NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

SUPPLEMENT NO. 3 TO PART 742—HIGH PERFORMANCE COMPUTERS; SAFEGUARD CONDITIONS AND RELATED INFORMATION

SUPPLEMENT NO. 4 TO PART 742—KEY ESCROW OR KEY RECOVERY PRODUCTS CRITERIA

§ 742.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. In addition to describing the reasons for control and licensing requirements and policies, this part describes any applicable contract sanctity provisions that may apply to specific controls and includes a description of any multilateral regime under which specific controls are maintained.

(b) *Reasons for control listed on the CCL not covered by this part.* This part describes the license requirements and the licensing policies for all the “Reasons for Control” that are listed on the Commerce Control List (CCL) except “Short Supply” and “U.N. Sanctions,” which do not appear on the Country Chart.

(1) *Short Supply.* ECCNs containing items subject to short supply controls (“SS”) refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude