

§ 744.9

7A102, 7A103, 7A104, 7A994, 9A001, 9A003, 9A018.a, 9A101, and 9A991.

[61 FR 12802, Mar. 25, 1996, as amended at 63 FR 42229, Aug. 7, 1998]

§ 744.9 Restrictions on technical assistance by U.S. persons with respect to encryption items.

(a) *General prohibition.* No U.S. person may, without authorization from BIS, provide technical assistance (including training) to foreign persons with the intent to aid a foreign person in the development or manufacture outside the United States of encryption commodities and software that, if of United States origin, would be controlled for EI reasons under ECCN 5A002 or 5D002. Technical assistance may be exported immediately to nationals of the countries listed in Supplement 3 to part 740 of the EAR (except for technical assistance to government end-users for cryptanalytic items) provided the exporter has submitted to BIS a completed classification request by the time of export. Note that this prohibition does not apply if the U.S. person providing the assistance has a license or is otherwise entitled to export the encryption commodities and software in question to the foreign person(s) receiving the assistance. Note in addition that the mere teaching or discussion of information about cryptography, including, for example, in an academic setting or in the work of groups or bodies engaged in standards development, by itself would not establish the intent described in this section, even where foreign persons are present.

(b) *Definition of U.S. person.* For purposes of this section, the term U.S. person includes:

(1) Any individual who is a citizen or permanent resident alien of the United States;

(2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and

(3) Any person in the United States.

(c) *License review standards.* Applications involving activities described in this section will be reviewed on a case-by-case basis to determine whether the activity is consistent with U.S. na-

15 CFR Ch. VII (1–1–04 Edition)

tional security and foreign policy interests.

[61 FR 68584, Dec. 30, 1996, as amended at 65 FR 62609, Oct. 19, 2000]

§ 744.10 Restrictions on certain entities in Russia.

(a) *General prohibition.* Certain entities in Russia are included in Supplement No. 4 to this part 744 (Entity List). (See also § 744.1(c) of the EAR.) Exporters are hereby informed that these entities are ineligible to receive any items subject to the EAR without a license.

(b) *Exceptions.* No License Exceptions apply to the prohibition described in paragraph (a) of this section.

(c) *License review standards.* Applications to export or reexport items subject to the EAR to these entities will be reviewed with a presumption of denial.

[64 FR 14605, Mar. 26, 1999]

§ 744.11 [Reserved]

§ 744.12 Restrictions on exports and reexports to persons designated in or pursuant to Executive Order 13224 (Specially Designated Global Terrorist) (SDGT).

BIS maintains restrictions on exports and reexports to persons designated in or pursuant to Executive Order 13224 of September 23, 2001 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism). These persons include individuals and entities listed in the Annex to Executive Order 13224, as well as persons subsequently designated by the Secretary of State or Secretary of the Treasury pursuant to criteria set forth in the Order. Pursuant to Executive Order 13224, the Department of the Treasury's Office of Foreign Assets Control (OFAC) maintains 31 CFR part 594, the Global Terrorism Sanctions Regulations. OFAC announces the names of persons designated pursuant to Executive Order 13224 in the FEDERAL REGISTER and includes such persons in Appendix A to 31 CFR Chapter V, which lists persons subject to various sanctions programs administered by OFAC. The Department of State also announces the names of foreign