

§ 744.4

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D:4 (see Supplement No. 1 to part 740 of the EAR); or

(2) Will be used in the design, development, production or use of missiles in or by a country listed in Country Group D:4, whether or not that use involves a listed project.

(b) *Additional prohibition on exporters informed by BIS.* BIS may inform the exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export or reexport, or for exports or reexports of specified items to a certain end-user, because there is an unacceptable risk of use in or diversion to activities described in paragraph (a) of this section, anywhere in the world. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section. An illustrative list of projects is included in a footnote to Country Group D:4. Exporters and reexporters are deemed to have been informed that an individual license is required to export or reexport to these projects. Exporters should be aware that the list of projects in Country Group D:4 is not comprehensive; extra caution should be exercised when making any shipments to a country listed in Country Group D:4.

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

(d) *License review standards for certain missile end-uses.* (1) Applications to export the items subject to this section will be considered on a case-by-case basis to determine whether the export would make a material contribution to the proliferation of missiles. When an export is deemed to make a material contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required by this section:

- (i) The specific nature of the end-use;
- (ii) The significance of the export in terms of its contribution to the design, development, production, or use of missiles;
- (iii) The capabilities and objectives of the missile and space programs of the recipient country;
- (iv) The non-proliferation credentials of the importing country;
- (v) The types of assurances or guarantees against design, development, production or use for missiles delivery purposes that are given in a particular case; and
- (vi) The existence of a pre-existing contract.

[61 FR 12802, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1997]

§ 744.4 Restrictions on certain chemical and biological weapons end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport an item subject to the EAR without a license if at the time of the export or reexport you know the item will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR).

(b) *Additional prohibition on exporters informed by BIS.* BIS may inform the exporter or reexporter, either individually by specific notice or through amendment to the EAR, that a license is required for a specific export or reexport, or for export or reexport of specified items to a certain end-user, because there is an unacceptable risk of use in or diversion to such activities, anywhere in the world. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration. When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. However, the absence of any such notification does not excuse the exporter from compliance with the license requirements of paragraph (a) of this section.

(c) *Exceptions.* No License Exceptions apply to the prohibitions described in paragraphs (a) and (b) of this section.

(d) *License review standards.* (1) Applications to export or reexport items subject to this section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the design, development, production, stockpiling, or use of chemical or biological weapons. When an export is deemed to make such a contribution, the license will be denied.

(2) The following factors are among those that will be considered to determine what action should be taken on an application required under this section:

- (i) The specific nature of the end-use;
- (ii) The significance of the export in terms of its contribution to the design, development, production, stockpiling, or use of chemical or biological weapons;
- (iii) The non-proliferation credentials of the importing country;
- (iv) The types of assurances or guarantees against design, development, production, stockpiling, or use of chemical or biological weapons that are given in a particular case; and
- (v) The existence of a pre-existing contract.⁵

[61 FR 12802, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1997]

§ 744.5 Restrictions on certain maritime nuclear propulsion end-uses.

(a) *General prohibition.* In addition to the license requirements for items specified on the CCL, you may not export or reexport certain technology subject to the EAR without a license if at the time of the export or reexport you know the item is for use in connection with a foreign maritime nuclear propulsion project. This prohibition applies to any technology relating to maritime nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, devices, components, or equipment specifically developed or designed for use in such plants or facilities.

⁵See Supplement No. 1 to part 742 of the EAR for relevant contract sanctity dates.

(b) *Exceptions.* The exceptions provided in part 740 of the EAR do not apply to the prohibitions described in paragraph (a) of this section.

(c) *License review standards.* It is the policy of the United States Government not to participate in and not to authorize United States firms or individuals to participate in foreign naval nuclear propulsion plant projects, except under an Agreement for Cooperation on naval nuclear propulsion executed in accordance with § 123(d) of the Atomic Energy Act of 1954. However, it is the policy of the United States Government to encourage United States firms and individuals to participate in maritime (civil) nuclear propulsion plant projects in friendly foreign countries provided that United States naval nuclear propulsion information is not disclosed.

[61 FR 12802, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1997]

§ 744.6 Restrictions on certain activities of U.S. persons.

(a) *General prohibitions—(1) Activities related to exports.* (i) No U.S. person as defined in paragraph (c) of this section may, without a license from BIS, export, reexport, or transfer to or in any country any item where that person knows that such items:

(A) Will be used in the design, development, production, or use of nuclear explosive devices in or by a country listed in Country Group D:2 (see Supplement No. 1 to part 740 of the EAR).

(B) Will be used in the design, development, production, or use of missiles in or by a country listed in Country Group D:4 (see Supplement No. 1 to part 740 of the EAR); or

(C) Will be used in the design, development, production, stockpiling, or use of chemical or biological weapons in or by a country listed in Country Group D:3 (see Supplement No. 1 to part 740 of the EAR).

(ii) No U.S. person shall, without a license from BIS, knowingly support an export, reexport, or transfer that does not have a license as required by this section. Support means any action, including financing, transportation, and freight forwarding, by which a person facilitates an export, reexport, or