

policy set forth in paragraph (b)(2) of this section.

(D) Your transaction is for the export of donated food to individuals or non-governmental organizations in Cuba and does not qualify as a humanitarian donation under License Exception GFT (§ 740.12 of the EAR) or License Exception AGR (§ 740.18 of the EAR).

(4) Applications for licenses may be approved, on a case-by-case basis, for certain exports to Cuba intended to provide support for the Cuban people, as follows:

(i) Applications for licenses for exports of certain commodities and software may be approved to human rights organizations, or to individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba when such exports do not give rise to U.S. national security or counter-terrorism concerns. Examples of such commodities include fax machines, copiers, computers (e.g., 486-level/CTP of 24.8 MTOPS or less), business/office software, document scanning equipment, printers, typewriters, and other office or office communications equipment. Applicants may donate or sell the commodities or software to be exported. Reexport to other end-users or end-uses is not authorized.

(ii) Commodities and software may be approved for export to U.S. news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. In addition to the examples of commodities and software listed in paragraph (b)(4)(i) of this section, certain telecommunications equipment necessary for the operation of news organizations (e.g., 33M bit/s data signaling rate or less) may be approved for export to U.S. news bureaus.

(iii) Exports of agricultural items, which are outside the scope of agricultural commodities as defined in part 772 of the EAR, such as insecticides, pesticides and herbicides, as well as agricultural commodities not eligible for License Exception AGR, require a license and will be reviewed on a case-by-case basis.

(c) Cuba has been designated by the Secretary of State as a country whose government has repeatedly provided

support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(d) *Definitions.* For purposes of this section, "U.S. person" means any person subject to the jurisdiction of the United States, as described in § 515.329 of the Cuban Assets Control Regulations (31 CFR 515.329).

(e) *Related controls.* OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever located, involving transactions with Cuba or any specially designated Cuban national, as provided in 31 CFR part 515. OFAC's Terrorism List Government Sanctions Regulations in 31 CFR part 596 prohibit U.S. persons from engaging in a financial transaction with the government of a designated state sponsor of international terrorism without OFAC authorization. The Department of State also implements sanctions on countries that are designated state sponsors of international terrorism. Exporters and reexporters should consult with those agencies for further guidance on these related controls.

[61 FR 12802, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 9364, Mar. 3, 1997; 62 FR 25459, May 9, 1997; 64 FR 25808, May 13, 1999; 66 FR 36682, July 12, 2001]

#### § 746.3 Iraq.

(a) *License requirements.* OFAC administers an embargo against Iraq under the authority of the International Emergency Economic Powers Act of 1977, as amended, and the United Nations Participation Act of 1945, as amended, and in conformance with United Nations Security Council Resolutions. The applicable OFAC regulations, the Iraqi Sanctions Regulations, are found in 31 CFR part 575. You should consult with OFAC for authorization to export or reexport items subject to U.S. jurisdiction to Iraq, or to any entity owned or controlled by, or specially designated as acting for or on behalf of, the Government of Iraq. Please note that such applications will generally be denied by OFAC, absent a published policy stating otherwise. Under the EAR, you need a license to export or reexport to Iraq any item on the CCL containing a CB Column 1, CB

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Column 2, CB Column 3, NP Column 1, NP Column 2, NS Column 1, NS Column 2, MT Column 1, RS Column 1, RS Column 2, CC Column 1, CC Column 2, CC Column 3 in the Country Chart Column of the License Requirements section of an ECCN, or classified under ECCNs 1C980, 1C981, 1C982, 1C983, 1C984, 1C997, 5A980, 0A980, 0A982, 0A983, 0A985, and 0E982; however, to avoid duplication, an authorization from OFAC constitutes authorization under the EAR, and no separate BIS authorization is necessary. No person may export or re-export any item subject to both the EAR and OFAC's Iraqi Sanctions Regulations without prior OFAC authorization. Exports and reexports subject to the EAR that are not subject to the Iraqi Sanctions Regulations may require authorization from BIS.

(1) *License Exceptions.* You may export or reexport without a license if your transaction meets all the applicable terms and conditions of one of the following License Exceptions. Read each License Exception carefully, as the provisions available for embargoed countries are generally narrow.

(i) *Baggage (BAG)* (see § 740.14 of the EAR).

(ii) *Governments and international organizations (GOV)* (see § 740.11 of the EAR).

(2) *Exports for the official use of the United Nations, its personnel or agencies (excluding its relief or developmental agencies).* You must consult with OFAC to determine what transactions are eligible.

(b) Iraq has been designated by the Secretary of State as a country that has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Supplement 2 to part 742 of the EAR.

(c) *Related controls.* OFAC maintains controls on the activities of U.S. persons, wherever located, involving transactions with Iraq or any specially designated Iraqi national, as provided in 31 CFR part 575.

[61 FR 12806, Mar. 25, 1996, as amended at 61 FR 64284, Dec. 4, 1996; 62 FR 25460, May 9, 1997; 66 FR 36682, July 12, 2001]

#### § 746.4 Libya.

(a) *Introduction.* The Department of the Treasury and the Department of

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Commerce maintain comprehensive controls on exports and reexports to Libya. OFAC maintains comprehensive controls on exports and transshipments to Libya under the Libyan Sanctions Regulations (31 CFR part 550). To avoid duplicate licensing procedures, OFAC and BIS have allocated licensing responsibility as follows: OFAC licenses direct exports and transshipments to Libya; BIS licenses reexports, exports of foreign-manufactured items containing U.S.-origin parts, components or materials, and exports of foreign-produced direct product of U.S. technology or software. Issuance of an OFAC license also constitutes authorization under the EAR, and no license from BIS is necessary. Exports and reexports subject to the EAR that are not subject to the Libyan Sanctions Regulations continue to require authorization from BIS.

(b) *License requirements.*

(1) *Exports.* OFAC and BIS both require a license for virtually all exports (including transshipments) to Libya. Except as noted in paragraph (b) of this section or specified in OFAC regulation, you may not use any BIS License Exception or other BIS authorization to export or transship to Libya. You will need a license from OFAC for all direct exports and transshipments to Libya except those eligible for the following BIS License Exceptions:

(i) *Baggage (BAG)* (see § 740.14 of the EAR).

(ii) *Governments and international organizations (GOV)* (see § 740.11 of the EAR).

(iii) *Gift parcels (GFT)* (see § 740.12(a) of the EAR).

(2) *Reexports.* You will need a license from BIS to reexport any U.S.-origin item from a third country to Libya, any foreign-manufactured item containing U.S.-origin parts, components or materials, as defined in § 734.2(b)(2) of the EAR, or any national security-controlled foreign-produced direct product of U.S. technology or software, as defined in § 734.2(b)(3) of the EAR, exported from the U.S. after March 12, 1982. You will need a license from BIS to reexport all items subject to the EAR (see part 734 of the EAR) to Libya, except: