

§ 748.14

this instance, the licensee must send a letter to BIS at the address listed in § 748.2(c) of this part, stating that the items on the license are no longer controlled for national security reasons, and accordingly, the request for DV will not be fulfilled by the licensee.

(c) *Procedure for obtaining Delivery Verification.* When notified that a DV is required by BIS, the licensee must transmit to the importer a written request for a DV at the time of making each shipment under the license (whenever possible, this request should be submitted together with the related bill of lading or air waybill). The request must include the number of the Import or End-User Certificate for the transaction referred to on the license, and notify the importer that this same Import or End-User Certificate number should be shown on the DV.

(1) The importer must obtain the DV from the appropriate government ministry identified in Supplement No. 4 to this part, and forward the completed DV to the licensee. The DV must cover the items described on the license that have been shipped. Note that BIS must be able to relate the description provided in the DV to the approved license. In order to ensure the same terminology is used, the licensee should provide the importer with the description as it appears on the license.

(2) The original copy of the DV must be sent to BIS within 90 days after the last shipment has been made against the license. If verification of delivery is required for items covered by a license against which partial shipments have been made, the licensee shall obtain the required DV for each partial shipment, and retain these on file until all shipments have been made against the license. Once all shipments against the license have been made (or the licensee has determined that none will be), the licensee must forward, in one package, all applicable DVs to BIS at the address listed in § 748.2(c) of this part.

(3) The documents must be forwarded with a dated letter giving the license number, the name, title and signature of the authorized representative, and one of the following statements:

(i) The total quantity authorized by license number \_\_\_\_\_ has been ex-

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ported, and all delivery verification documents are attached.

(ii) A part of the quantity authorized by license number \_\_\_\_\_ will not be exported. Delivery verification documents covering all items exported are attached.

(iii) No shipment has been made against this license, and none is contemplated.

(d) *Inability to obtain Delivery Verification Certificates.* If a licensee is unable to obtain the required DV (within the time frame stated above, or at all) from the importer, the licensee must promptly notify BIS and, upon request, make available all information and records, including correspondence, regarding the attempt to obtain the DV.

[61 FR 12812, Mar. 25, 1996, as amended at 62 FR 25461, May 9, 1997]

**§ 748.14 Import Certificate for firearms destined for Organization of American States member countries.**

(a) *Scope.* Consistent with the OAS Model Regulations, BIS requires from all OAS member countries an Import Certificate issued by the government of the importing country for items classified as ECCNs 0A984, 0A986, or 0A987. For those OAS member countries that have not yet established or implemented an Import Certificate procedure, BIS will accept an equivalent official document (e.g., import license or letter of authorization) issued by the government of the importing country as supporting documentation for the export of firearms. This section describes the requirements for Import Certificates or official equivalents in support of license applications submitted to BIS for firearms items that are identified by "FC Column 1" in the "License Requirements" section of the Commerce Control List.

(b) *Import Certificate Procedure.* An Import Certificate or equivalent official document must be obtained from the government of the importing OAS member country for firearms items classified as ECCNs 0A984, 0A986, or 0A987. Except as provided by § 748.9(a) of the EAR, the applicant must obtain and retain on file either the original or certified copy of the Import Certificate, or an original or certified copy of

equivalent official document issued by the government of the importing country in support of any license application for export of firearms items classified as 0A984, 0A986, or 0A987. All the recordkeeping provisions of § 762.2 of the EAR apply to this requirement. The applicant must clearly note the number and date of the Import Certificate or equivalent official document on all export license applications (BIS Form 748P, Multipurpose Application Form, Block 13) supported by that Certificate or equivalent official document. The applicant must also indicate in Block 7 of the application that the Certificate or equivalent official document has been received and will be retained on file. However, the applicant may submit an application before obtaining the original or certified copy of the Import Certificate, or the official original or certified copy of the equivalent document, provided that:

(1) The applicant has received a facsimile of the Import Certificate or equivalent official document at the time the license application is filed; and

(2) The applicant states on the application that a facsimile of the Import Certificate or equivalent official document has been received and that no shipment will be made against the license prior to obtaining the original or certified copy of the Import Certificate or the original or certified copy of the equivalent official document issued by the importing country and retaining it on file. Generally, BIS will not consider any license application for the export of firearms items if the application is not supported by an Import Certificate or its official equivalent. If the government of the importing country will not issue an Import Certificate or its official equivalent, the applicant must supply the information described in paragraphs (g)(2)(i) and (g)(2)(vi) through (viii) of this section on company letterhead.

(c) *Countries to which firearms controls apply.* The firearms controls apply to all OAS member countries: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guy-

ana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay, and Venezuela.

(d) *Items/Commodities.* An Import Certificate or equivalent official document is required for items controlled under Export Control Classification Numbers (ECCNs) 0A984, 0A986, or 0A987.

(e) *Use of the Import Certificate.* An Import Certificate or equivalent official document can only be used to support one BIS Form-748P, Multipurpose Application. The BIS Form-748P, Multipurpose Application, must include the same items as those listed on the Import Certificate or the equivalent official document.

(f) *Validity period.* Import Certificates or equivalent official documents issued by an OAS member country will be valid for a period of one year or less. Although licenses generally are valid for two years, your ability to ship may be affected by the validity of the Import Certificate or equivalent official document.

(g) *How to obtain an Import Certificate for firearms items destined to OAS member countries.* (1) Applicants must request that the importer (e.g., ultimate consignee or purchaser) obtain the Import Certificate or an equivalent official document from the government of the importing country, and that it be issued covering the quantities and types of items that the applicant intends to export. Upon receipt of the Import Certificate or its official equivalent, the importer must provide the original or a certified copy of the Import Certificate or the original or a certified copy of the equivalent official document to the applicant. The applicant shall obtain the required documents prior to submitting a license application, except as provided in paragraphs (b)(1) and (b)(2) of this section.

(2) The Import Certificate or its official equivalent must contain the following information:

(i) Applicant's name and address. The applicant may be either the exporter, supplier, or order party.

(ii) Import Certificate Identifier/Number.

(iii) Name of the country issuing the certificate or unique country code.

(iv) Date the Import Certificate was issued, in international date format (e.g., 24/12/98 (24 December 1998), or 3/1/99 (3 January 1999)).

(v) Name of the agency issuing the certificate, address, telephone and facsimile numbers, signing officer name, and signature.

(vi) Name of the importer, address, telephone and facsimile numbers, country of residence, representative's name if commercial or government body, citizenship, and signature.

(vii) Name of the end-user(s), if known and different from the importer, address, telephone and facsimile numbers, country of residence, representative's name if commercial (authorized distributor or reseller) or government body, citizenship, and signature. Note that BIS does not require the identification of each end-user when the firearms items will be resold by a distributor or reseller if unknown at the time of export.

(viii) Description of the items approved for import including a technical description and total quantity of firearms, parts and components, ammunition and parts.

NOTE TO PARAGRAPH (g)(2)(viii): You must furnish the consignee with a detailed technical description of each item to be given to the government for its use in issuing the Import Certificate. For example, for shotguns, provide the type, barrel length, overall length, number of shots, the manufacturer's name, the country of manufacture, and the serial number for each shotgun. For ammunition, provide the caliber, velocity and force, type of bullet, manufacturer's name and country of manufacture.

(ix) Expiration date of the Import Certificate in international date format (e.g., 24/12/98) or the date the items must be imported, whichever is earlier.

(x) Name of the country of export (i.e., United States).

(xi) *Additional information.* Certain countries may require the tariff classification number, by class, under the Brussels Convention (Harmonized Tariff Code) or the specific technical description of an item. For example, shotguns may need to be described in barrel length, overall length, number of shots, manufacturer's name and country of manufacture. The technical

description is not the Export Control Classification Number (ECCN).

(h) *Where to obtain Import Certificates.* See Supplement No. 6 to this part for a list of the OAS member countries' authorities administering the Import Certificate System.

(i) *Alterations.* After an Import Certificate or official equivalent document is used to support the issuance of a license, no corrections, additions, or alterations may be made on the Certificate by any person. If you desire to explain any information contained on the Import Certificate or official equivalent document, you may attach a signed statement to the Import Certificate or official equivalent.

(j) *Request for return of Import Certificates.* A U.S. exporter may be requested by a foreign importer to return an unused Import Certificate. Refer to §748.9(j) of this part for procedures and recordkeeping requirements for returning an Import Certificate retained by the applicant.

[64 FR 17973, Apr. 13, 1999]

SUPPLEMENT NO. 1 TO PART 748—BIS-748P, BIS-748P-A; ITEM APPENDIX, AND BIS-748P-B; END-USER APPENDIX; MULTIPURPOSE APPLICATION INSTRUCTIONS

All information must be legibly typed within the lines for each Block or Box, except where a signature is required. Enter only one typed line of text per Block or line. Where there is a choice of entering telephone numbers or facsimile numbers, and you wish to provide a facsimile number instead of a telephone number, identify the facsimile number with the letter "F" immediately after the number (e.g., 022-358-0-123456F). If you are completing this form to request classification of your item, you must complete Blocks 1 through 5, 14, 22 (a), (b), (c), (d), and (i), 24, and 25 only.

Block 1: Contact Person. Enter the name of the person who can answer questions concerning the application.

Block 2: Telephone. Enter the telephone number of the person who can answer questions concerning the application.

Block 3: Facsimile. Enter the facsimile number, if available, of the person who can answer questions concerning the application.

Block 4: Date of Application. Enter the current date.

Block 5: Type of Application. *Export.* If the items are located within the United States, and you wish to export those items, mark

the Box labeled "Export" with an (X). *Reexport*. If the items are located outside the United States, mark the Box labeled "Reexport" with an (X). *Classification*. If you are requesting BIS to classify your item against the Commerce Control List (CCL), mark the Box labeled "Classification Request" with an (X). *Encryption Review*. If you are requesting encryption review under License Exception ENC (§740.17 of the EAR) or "mass market" encryption provisions (§742.15(b)(2) of the EAR), mark the Box labeled "Classification Request" with an (X). *Special Comprehensive License*. If you are submitting a Special Comprehensive License application in accordance with the procedures described in part 752 of the EAR, mark the Box labeled "Special Comprehensive License" with an (X).

Block 6: Documents submitted with Application. Review the documentation you are required to submit with your application in accordance with the provisions of part 748 of the EAR, and mark all applicable Boxes with an (X).

Mark the Box "Foreign Availability" with an (X) if you are submitting an assertion of foreign availability with your license application. See part 768 of the EAR for instructions on foreign availability submissions.

Mark the "Tech. Specs." box with an (X) if you are submitting descriptive literature, brochures, technical specifications, etc. with your application.

Block 7: Documents on File with Applicant. Certify that you have retained on file all applicable documents as required by the provisions of part 748 by placing an (X) in the appropriate Box(es).

Block 8: Special Comprehensive License. Complete this Block only if you are submitting an application for a Special Comprehensive License in accordance with part 752 of the EAR.

Block 9: Special Purpose. Complete this block for certain items or types of transactions only if specifically required in Supplement No. 2 to this part.

Block 10: Resubmission Application Control Number. If your original application was returned without action (RWA), provide the Application Control Number. This does not apply to applications returned without being registered.

Block 11: Replacement License Number. If you have received a license for identical items to the same ultimate consignee, but would like to make a modification that is not excepted in §750.7(c) of the EAR, to the license as originally approved, enter the original license number and complete Blocks 12 through 25, where applicable. Include a statement in Block 24 regarding what changes you wish to make to the original license.

Block 12: Items Previously Exported. This Block should be completed only if you have marked the "Reexport" box in Block 5.

Enter the license number, License Exception symbol (for exports under General Licenses, enter the appropriate General License symbol), or other authorization under which the items were originally exported, if known.

Block 13: Import/End-User Certificate. Enter the name of the country and number of the Import or End User Certificate obtained in accordance with provisions of this part.

Block 14: Applicant. Enter the applicant's name, street address, city, state/country, and postal code. Provide a complete street address. P.O. Boxes are not acceptable. Refer to §748.5(a) of this part for a definition of "applicant". If you have marked "Export" in Block 5, you must include your company's Employer Identification Number unless you are filing as an individual or as an agent on behalf of the exporter. The Employee Identification Number is assigned by the Internal Revenue Service for tax identification purposes. Accordingly, you should consult your company's financial officer or accounting division to obtain this number.

Block 15: Other Party Authorized to Receive License. If you would like BIS to transmit the approved license to another party designated by you, complete all information in this Block, including name, street address, city, country, postal code and telephone number. Leave this space blank if the license is to be sent to the applicant. Designation of another party to receive the license does not alter the responsibilities of the applicant.

Block 16: Purchaser. Enter the purchaser's complete name, street address, city, country, postal code, and telephone or facsimile number. Refer to §748.5(c) of this part for a definition of "purchaser". If the purchaser is also the ultimate consignee, enter the complete name and address. If your proposed transaction does not involve a separate purchaser, leave Block 16 blank.

Block 17: Intermediate consignee. Enter the intermediate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. Refer to §748.5(d) of this part for a definition of "intermediate consignee". If this party is identical to that listed in Block 16, enter the complete name and address. If your proposed transaction does not involve use of an intermediate consignee, enter "None". If your proposed transaction involves more than one intermediate consignee, provide the same information in Block 24 for each additional intermediate consignee.

Block 18: Ultimate Consignee. This Block must be completed if you are submitting a license application. Enter the ultimate consignee's complete name, street address, city,

country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The ultimate consignee is the party who will actually receive the item for the end-use designated in Block 21. Refer to §748.5(e) of this part for a definition of "ultimate consignee". A bank, freight forwarder, forwarding agent, or other intermediary may not be identified as the ultimate consignee. Government purchasing organizations are the sole exception to this requirement. This type of entity may be identified as the government entity that is the actual ultimate consignee in those instances when the items are to be transferred to the government entity that is the actual end-user, provided the actual end-user and end-use is clearly identified in Block 21 or in the additional documentation attached to the application.

If your application is for the reexport of items previously exported, enter the new ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. If your application involves a temporary export or reexport, the applicant should be shown as the ultimate consignee in care of a person or entity who will have control over the items abroad.

**Block 19: End-User.** Complete this Block only if the ultimate consignee identified in Block 18 is not the actual end-user. If there will be more than one end-user, use Form BIS-748P-B to identify each additional end-user. Enter each end-user's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable.

**Block 20: Original Ultimate Consignee.** If your application involves the reexport of items previously exported, enter the original ultimate consignee's complete name, street address, city, country, postal code, and telephone or facsimile number. Provide a complete street address, P.O. Boxes are not acceptable. The original ultimate consignee is the entity identified in the original application for export as the ultimate consignee or the party currently in possession of the items.

**Block 21. Specific End-Use:** This Block must be completed if you are submitting a license application. Provide a complete and detailed description of the end-use intended by the ultimate consignee and/or end-user(s). If you are requesting approval of a reexport, provide a complete and detailed description of the end-use intended by the new ultimate consignee or end-user(s) and indicate any other countries for which resale or reexport is requested. If additional space is necessary, use Block 21 on Form BIS-748P-A or B. Be specific—vague descriptions such as "re-

search", "manufacturing", or "scientific uses" are not acceptable.

**Block 22:** For a license application, you must complete each of the sub-blocks contained in this Block. If you are submitting a classification request, you need not complete Blocks (e), (f), (g), and (h). If you wish to export, reexport, or have BIS classify more than one item, use Form BIS-748P-A for additional items.

(a) **ECCN.** Enter the Export Control Classification Number (ECCN) that corresponds to the item you wish to export or reexport. If you are asking BIS to classify your item, provide a recommended classification for the item in this Block.

(b) **CTP.** You must complete this Block only if your application involves a digital computer or equipment containing a digital computer as described in Supplement No. 2 to this part. Instructions on calculating the CTP are contained in a Technical Note at the end of Category 4 in the CCL.

(c) **Model Number.** Enter the correct model number for the item.

(d) **CCATS Number.** If you have received a classification for this item from BIS, provide the CCATS number shown on the classification issued by BIS.

(e) **Quantity.** Identify the quantity to be exported or reexported, in terms of the "Unit" identified for the ECCN entered in Block 22(a). If the "Unit" for an item is "\$ value", enter the quantity in units commonly used in the trade.

(f) **Units.** The "Unit" paragraph within each ECCN will list a specific "Unit" for those items controlled by the entry. The "Unit" must be entered on all license applications submitted to BIS. If an item is licensed in terms of "\$ value", the unit of quantity commonly used in the trade must also be shown on the license application. This Block may be left blank on license applications only if the "Unit" for the ECCN entered in Block 22(a) is shown as "N/A" on the CCL.

(g) **Unit Price.** Provide the fair market value of the items you wish to export or reexport. Round all prices to the nearest whole dollar amount. Give the exact unit price only if the value is less than \$0.50. If normal trade practices make it impractical to establish a firm contract price, state in Block 24 the precise terms upon which the price is to be ascertained and from which the contract price may be objectively determined.

(h) **Total Price.** Provide the total price of the item(s) described in Block 22(j).

(i) **Manufacturer.** Provide the name only of the manufacturer, if known, for each of the items you wish to export, reexport, or have BIS classify, if different from the applicant.

(j) **Technical Description.** Provide a description of the item(s) you wish to export, reexport, or have BIS classify. Provide details when necessary to identify the specific

item(s), include all characteristics or parameters shown in the applicable ECCN using measurements identified in the ECCN (e.g., basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc.). These characteristics must be identified for the items in the proposed transaction when they are different than the characteristics described in promotional brochure(s).

**Block 23: Total Application Dollar Value.** Enter the total value of all items contained on the application in U.S. Dollars. The use of other currencies is not acceptable.

**Block 24: Additional Information.** Enter additional data pertinent to the application as required in the EAR. Include special certifications, names of parties of interest not disclosed elsewhere, explanation of documents attached, etc. Do not include information concerning Block 22 in this space.

If your application represents a previously denied application, you must provide the Application Control Number from the original application.

If you are requesting BIS to classify your product, use this space to explain why you believe the ECCN entered in Block 22(a) is appropriate. This explanation must contain an analysis of the item in terms of the technical control parameters specified in the appropriate ECCN. If you have not identified a recommended classification in Block 22(a), you must state the reason you cannot determine the appropriate classification, identifying anything in the regulations that you believe precluded you from determining the correct classification.

If additional space is necessary, use Block 24 on Form BIS-748P-A or B.

**Block 25:** You, as the applicant or duly authorized agent of the applicant, must manually sign in this Block. Rubber-stamped or electronic signatures are not acceptable. If you are an agent of the applicant, in addition to providing your name and title in this Block, you must enter your company's name in Block 24. Type both your name and title in the space provided.

[61 FR 12812, Mar. 25, 1996, as amended at 62 FR 25462, May 9, 1997; 68 FR 35786, June 17, 2003]

#### SUPPLEMENT NO. 2 TO PART 748—UNIQUE LICENSE APPLICATION REQUIREMENTS

In addition to the instructions contained in Supplement No. 1 to part 748, you must also ensure that the additional requirements for certain items or types of transactions described in this supplement are addressed in your license application. All other blocks not specifically identified in this supplement must be completed in accordance with the instructions contained in Supplement No. 1 to part 748. The term "Block" used in this

supplement relates to Form BIS-748P, unless otherwise noted.

(a) *Chemicals, medicinals, and pharmaceuticals.* If you are submitting a license application for the export or reexport of chemicals, medicinals, and/or pharmaceuticals, the following information must be provided in Block 22.

(1) Facts relating to the grade, form, concentration, mixture(s), or ingredients as may be necessary to identify the item accurately, and;

(2) The Chemical Abstract Service Registry (C.A.S.) numbers, if they exist, must be identified.

(b) *Communications intercepting devices.* If you are required to submit a license application under §742.13 of this part, you must enter the words "Communications Intercepting Device(s)" in Block 9. The item you are requesting to export or reexport must be specified by name in Block 22(j).

(c) *Digital computers, telecommunications, and related equipment.* If your license application involves items controlled by both Category 4 and Category 5, your license application must be submitted according to the principal function of the equipment. License applications involving computers controlled by Category 4 must identify a Composite Theoretical Performance (CTP) in Block 22(b). If the principal function is telecommunications, a CTP is not required. Computers, related equipment, or software performing telecommunication or local area network functions will be evaluated against the telecommunications performance characteristics of Category 5, while cryptographic, cryptoanalytic, certifiable multi-level security or certifiable user isolation functions, or systems that limit electromagnetic compatibility (EMC) will be evaluated against the information security performance characteristics of Category 5.

(1) *Requirements for license applications involving digital computers.* If you are submitting a license application to export or reexport "digital computers" or equipment containing digital computers to destinations in Country Group D:1 (See Supplement No. 1 to part 740 of the EAR), or to upgrade existing "digital computer" installations in those countries, you must include in addition to the CTP in Block 22(b) the following information:

(i) A configuration diagram of the entire system must be submitted if the equipment exceeds the limits of the Advisory Notes that indicate a likelihood of approval for Country Group D:1 for the appropriate ECCN in the Commerce Control List (CCL); and

(ii) Technical specifications and product brochures to corroborate the data supplied in your license application.

(2) *Additional requirements.* License applications to export or reexport computers or related equipment that are described in Advisory Note 4 to Category 4, or that exceed any of the limits specified in Advisory Notes 3 or 4 to Category 4, must include:

(i) A signed statement by a responsible representative of the end-user or the importing agency describing the end-use and certifying that the “digital” computers or related equipment:

(A) Will be used only for civil applications; and

(B) Will not be reexported or otherwise disposed of without prior written authorization from BIS;

(ii) A full description of the equipment and its intended application and workload; and

(iii) A complete identification of all end-users and their activities.

(d) *Gift parcels; consolidated in a single shipment.* If you are submitting a license application to export multiple gift parcels for delivery to individuals residing in a foreign country, you must include the following information in your license application.

NOTE: Each gift parcel must meet the terms and conditions described for *gift parcels* in License Exception GFT (see §740.12(a) of the EAR).

(1) In Block 16, enter the word “None”;

(2) In Block 18, enter the word “Various” instead of the name and address of a single ultimate consignee;

(3) In Block 21, enter the phrase “For personal use by recipients”.

(4) In Block 22(e), indicate a reasonable estimate of the number of parcels to be shipped during the validity of the license;

(5) In Block 22(j), enter the phrase “Gift Parcels”;

(6) In Block 23, indicate a reasonable value approximation proportionate to the quantity of gift parcels identified in Block 22(e); and

(e) *Intransit through the United States.* If you are submitting a license application for items moving intransit through the United States that do not qualify for the *intransit* provisions of License Exception TMP (see §740.9(b)(1) of the EAR), you must provide the following information with your license application:

(1) In Block 9, enter the phrase “Intransit Shipment”;

(2) In Block 24, enter the name and address of the foreign consignor who shipped the items to the United States and state the origin of the shipment;

(3) Any available evidence showing the approval or acquiescence of the exporting country (or the country of which the exporter is a resident) for shipments to the proposed ultimate destination. Such evidence may be in the form of a Transit Authorization Certificate; and

(4) Any support documentation required by §748.9 of this part for the country of ultimate destination.

(f) *Intransit outside of the United States.* If you are submitting a license application based on General Prohibition No. 8 stated in §734.2(b)(8) of the EAR and identification of the intermediate consignee in the country of unloading or transit is unknown at the time the license application is submitted, the country of unloading or transit must be shown in Block 17.

(g) *Nuclear Nonproliferation items and end-uses—(1) Statement requirement.* If a license is required to export or reexport items described in §742.3 of the EAR, or any other item (except those controlled for short supply reasons) where the item is intended for a nuclear end-use, prior to submitting a license application, you must obtain a signed written statement from the end-user certifying the following:

(i) The items to be exported or replicas thereof (“replicas” refers to items produced abroad based on physical examination of the item originally exported, matching it in all critical design and performance parameters), will not be used in any of the activities described in §744.2(a) of the EAR; and

(ii) Written authorization will be obtained from the BIS prior to reexporting the items, unless they are destined to Canada or would be eligible for export from the United States to the new country of destination under NLR based on Country Chart NP Column 1.

(2) *License application requirements.* Along with the required certification, you must include the following information in your license application:

(i) In Block 7, place an (X) in the box titled “Nuclear Certification”;

(ii) In Block 9, enter the phrase “NUCLEAR CONTROLS”;

(iii) In Block 21, provide, if known, the specific geographic locations of any installations, establishments, or sites at which the items will be used;

(iv) In Block 22(j), if applicable, include a description of any specific features of design or specific modifications that make the item capable of nuclear explosive activities, or of safeguarded or unsafeguarded nuclear activities as described in §744.2(a)(3) of the EAR; and

(v) In Block 24, if your license application is being submitted because you know that your transaction involves a nuclear end-use described in §744.2 of the EAR, you must fully explain the basis for your knowledge that the items are intended for the purpose(s) described §744.2 of the EAR. Indicate, if possible, the specific end-use(s) the items will have in designing, developing, fabricating, or testing nuclear weapons or nuclear explosive devices or in designing, constructing, fabricating, or operating the facilities described in §744.2(a)(3) of the EAR.

(h) *Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies and specially designed software.* (1) If you are submitting a license application to export, reexport, or request BIS to classify numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, and specially designed software you must include the following information in your license application:

(i) For numerical control devices and motion control boards:

(A) Make and model number of the control unit;

(B) Description and internal configuration of numerical control device. If the device is a computer with motion control board(s), then include the make and model number of the computer;

(C) Description of the manner in which a computer will be connected to the CNC unit for on-line processing of CAD data. Specify the make and model of the computer;

(D) Number of axes the control unit is capable of simultaneously controlling in a coordinated contouring mode, and type of interpolation (linear, circular, and other);

(E) Minimum programmable increment;

(F) A description and an itemized list of all software/firmware to be supplied with the control device or motion control board, including software/firmware for axis interpolation function and for any programmable control unit or device to be supplied with the control unit;

(G) Description of capabilities related to "real time processing" and receiving computer aided-design;

(H) A description of capability to accept additional boards or software that would permit an upgrade of the electronic device or motion control board above the control levels specified in ECCN 2B001; and

(I) Specify if the electronic device has been downgraded, and if so can it be upgraded in future.

(ii) For numerically controlled machine tools and dimensional inspection machines:

(A) Name and model number of machine tool or dimensional inspection machine;

(B) Type of equipment, e.g., horizontal boring machine, machining center, dimensional inspection machine, turning center, water jet, etc.;

(C) Description of the linear and rotary axes capable of being simultaneously controlled in a coordinated contouring mode, regardless of the fact that the coordinated movement of the machine axis may be limited by the numerical control unit supplied by the machine tool;

(D) Maximum workpiece diameter for cylindrical grinding machines;

(E) Motion (camming) of the spindle axis measured in the axial direction in one revolution of the spindle, and a description of the method of measurement for turning machine tools only;

(F) Motion (run out) of the spindle axis measured in the radial direction in one revolution of the spindle, and a description of the method of measurement;

(G) Overall positioning accuracy in each axis, and a description of the method for measurement; and

(H) Slide motion test results.

(i) *Parts, components, and materials incorporated abroad into foreign-made products.* BIS will consider license applications to export or reexport to multiple consignees or multiple countries when an application is required for foreign produced direct product containing parts and components subject to the EAR in §732.4(b) of the EAR and to General Prohibition Two stated in §734.2(b)(2) of the EAR. Such requests will not be approved for countries listed in Country Group E:2 (See Supplement No. 1 to part 740 of the EAR), and may be approved only in limited circumstances for countries listed in Country Group D:1.

(1) *License applications for the export of parts and components.* If you are submitting a license application for the export of parts, components, or materials to be incorporated abroad into products that will then be sent to designated third countries, you must enter in Block 21, a description of end-use including a general description of the commodities to be manufactured, their typical end-use, and the countries where those commodities will be marketed. The countries may be listed specifically or may be identified by Country Groups, geographic areas, etc.

(2) *License applications for the reexport of incorporated parts and components.* If you are submitting a license application for the reexport of parts, components, or materials incorporated abroad into products that will be sent to designated third countries you must include the following information in your license application:

(i) In Block 9, enter the phrase "Parts and Components";

(ii) In Block 18, enter the name, street address, city and country of the foreign party who will be receiving the foreign-made product. If you are requesting approval for multiple countries or consignees enter "Various" in Block 18, and list the specific countries, Country Groups, or geographic areas in Block 24;

(iii) In Block 20, enter the name, street address, city, and country of the foreign party who will be exporting the foreign-made product incorporating U.S. origin parts, components or materials;

(iv) In Block 21, describe the activity of the ultimate consignee identified in Block 18 and

the end-use of the foreign-made product. Indicate the final configuration if the product is intended to be incorporated in a larger system. If the end-use is unknown, state "unknown" and describe the general activities of the end-user;

(v) In Block 22(e), specify the quantity for each foreign-made product. If this information is unknown, enter "Unknown" in Block 22(e);

(vi) In Block 22(h), enter the digit "0" for each foreign-made product;

(vii) In Block 22(j), describe the foreign-made product that will be exported, specifying type and model or part number. Attach brochures or specifications, if available. Show as part of the description the unit value, in U.S. dollars, of the foreign-made product (if more than one foreign-made product is listed on the license application, specify the unit value for each type/model/part number). Also include a description of the U.S. content (including the applicable Export Control Classification Number(s)) and its value in U.S. dollars. If more than one foreign-made product is identified on the license application, describe the U.S. content and specify the U.S. content value for each foreign-made product. Also, provide sufficient supporting information to explain the basis for the stated values. To the extent possible, explain how much of the value of the foreign-made product represents foreign origin parts, components, or materials, as opposed to labor, overhead, etc. When the U.S. content varies and cannot be specified in advance, provide a range of percentage and value that would indicate the minimum and maximum U.S. content;

(viii) Include separately in Block 22(j) a description of any U.S. origin spare parts to be reexported with the foreign-made product, if they exceed the amount allowed by §740.10 of the EAR. Enter the quantity, if appropriate, in Block 22(e). Enter the ECCN for the spare parts in Block 22(a) and enter the value of the spare parts in Block 22(h);

(ix) In Block 23, enter the digit "0";

(x) If the foreign-made product is the direct product of U.S. origin technology that was exported or reexported subject to written assurance, a request for waiver of that assurance, if necessary, may be made in Block 24. If U.S. origin technology will accompany a shipment to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR) describe in Block 24 the type of technology and how it will be used.

(j) *Ship stores, plane stores, supplies, and equipment—(1) Vessels under construction.* If you are submitting a license application for the export or reexport of items, including ship stores, supplies, and equipment, to a vessel under construction you must include the following information in your license application:

(i) In Block 18, enter the name, street address, city, and country of the shipyard where vessel is being constructed;

(ii) In Block 22(j), state the length of the vessel for a vessel under 12 m (40 ft) in length. For a vessel 12 m (40 ft) in length or over, provide the following information (if this information is unknown, enter "Unknown" in this Block):

(A) Hull number and name of vessel;

(B) Type of vessel;

(C) Name and business address of prospective owner, and the prospective owner's nationality; and

(D) Country of registry or intended country of registry.

(2) *Aircraft under construction.* If you are submitting a license application for the export or reexport of items, including plane stores, supplies, and equipment, to an aircraft under construction you must include the following information in your license application:

(i) In Block 18, enter the name and address of the plant where the aircraft is being constructed;

(ii) In Block 22(j), enter the following information (if this information is unknown, enter "Unknown" in this Block):

(A) Type of aircraft and model number;

(B) Name and business address of prospective owner and his nationality; and

(C) Country of registry or intended country of registry.

(3) *Operating vessels and aircraft.* If you are submitting a license application for the export or reexport of items, including ship or plane stores, supplies, and equipment to an operating vessel or aircraft, whether in operation or being repaired, you must include the following information in your license application:

(i) In Block 18, enter the name of the owner, the name of the vessel, if applicable, and port or point where the items will be taken aboard;

(ii) In Block 18, enter the following statement if, at the time of filing the license application, it is uncertain where the vessel or aircraft will take on the items, but it is known that the items will not be shipped to a country listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR):

Uncertain; however, shipment(s) will not be made to Country Groups D:1 or E:2.

(iii) Provide information as described in paragraph (j)(1)(ii) of this supplement for vessels or information contained in paragraph (j)(2)(ii) of this supplement for aircraft.

(k) *Regional stability controlled items.* If you are submitting a license application for the export or reexport of items controlled for regional stability reasons and subject to licensing under RS Column 1 on the Country

Chart, your license application must be accompanied by full technical specifications.

(l) *Reexports.* If you know that an item that requires a license to be exported from the United States to a certain foreign destination will be reexported to a third destination also requiring approval, such a request must be included on the license application. The license application must specify the country to which the reexport will be made in Block 24. If the export does not require a license but the reexport does, you may apply for a license for the reexport, or you may export without a license and notify the consignee of the requirement to seek a license to reexport.

(m) *Robots.* If you are submitting a license application for the export or reexport of items controlled by ECCNs 2B007 or 2D001 (including robots, robot controllers, end-effectors, or related software) the following information must be provided in Block 24:

(1) Specify if the robot is equipped with a vision system and its make, type, and model number;

(2) Specify if the robot is specially designed to comply with national safety standards for explosive munitions environments;

(3) Specify if the robot is specially designed for outdoor applications and if it meets military specifications for those applications;

(4) Specify if the robot is specially designed for operating in an electro-magnetic pulse (EMP) environment;

(5) Specify if the robot is specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation, and its rating in grays (Silicon);

(6) Describe the robot's capability of using sensors, image processing or scene analysis to generate or to modify robot program instructions or data;

(7) Describe the manner in which the robot may be used in nuclear industry/manufacturing; and

(8) Specify if the robot controllers, end-effectors, or software are specially designed for robots controlled by ECCN 2B007, and why.

(n) *Short Supply controlled items.* If you are submitting a license application for the export of items controlled for short supply reasons, you must consult part 754 of the EAR for instructions on preparing your license application.

(o) *Technology—(1) License application instructions.* If you are submitting a license application for the export or reexport of technology you must check the box labeled "Letter of Explanation" in Block 6, enter the word "Technology" in Block 9, leave Blocks 22(e) and (i) blank, and include a general statement that specifies the technology (e.g., blueprints, manuals, etc.) in Block 22(j).

(2) *Letter of explanation.* Each license application to export or reexport technology must be supported by a comprehensive letter of explanation. This letter must describe all the facts for a complete disclosure of the transaction including, if applicable, the following information:

(i) The identities of all parties to the transaction;

(ii) The exact project location where the technology will be used;

(iii) The type of technology to be exported or reexported;

(iv) The form in which the export or reexport will be made;

(v) The uses for which the data will be employed;

(vi) An explanation of the process, product, size, and output capacity of all items to be produced with the technology, if applicable, or other description that delineates, defines, and limits the data to be transmitted (the "technical scope"); and

(vii) The availability abroad of comparable foreign technology.

(3) *Special provisions—(i) Technology controlled for national security reasons.* If you are submitting a license application to export technology controlled for national security reasons to a country *not* listed in Country Group D:1 or E:2 (see Supplement No. 1 to part 740 of the EAR), upon request, you must provide BIS a copy of the written letter from the ultimate consignee assuring that, unless prior authorization is obtained from BIS, the consignee will not knowingly reexport the technology to any destination, or export the direct product of the technology, directly or indirectly, to a country listed in Country Group D:1 or E:2 (see Supplement No. 2 to part 740 of the EAR). If you are unable to obtain this letter of assurance from your consignee, you must state in your license application why the assurances could not be obtained.

(ii) *Maritime nuclear propulsion plants and related items.* If you are submitting a license application to export or reexport technology relating to maritime nuclear propulsion plants and related items including maritime (civil) nuclear propulsion plants, their land prototypes, and special facilities for their construction, support, or maintenance, including any machinery, device, component, or equipment specifically developed or designed for use in such plants or facilities you must include the following information in your license application:

(A) A description of the foreign project for which the technology will be furnished;

(B) A description of the scope of the proposed services to be offered by the applicant, his consultant(s), and his subcontractor(s), including all the design data that will be disclosed;

(C) The names, addresses and titles of all personnel of the applicant, the applicant's

consultant(s) and subcontractor(s) who will discuss or disclose the technology or be involved in the design or development of the technology;

(D) The beginning and termination dates of the period of time during which the technology will be discussed or disclosed and a proposed time schedule of the reports the applicant will submit to BIS, detailing the technology discussed or disclosed during the period of the license;

(E) The following certification:

I (We) certify that if this license application is approved, I (we) and any consultants, subcontractors, or other persons employed or retained by us in connection with the project licensed will not discuss with or disclose to others, directly or indirectly, any technology relating to U.S. naval nuclear propulsion plants. I (We) further certify that I (we) will furnish to the Bureau of Industry and Security all reports and information it may require concerning specific transmittals or disclosures of technology under any license granted as a result of this license application.

(F) A statement of the steps that you will take to assure that personnel of the applicant, the applicant's consultant(s) and subcontractor(s) will not discuss or disclose to others technology relating to U.S. naval nuclear propulsion plants; and

(G) A written statement of assurance from the foreign importer as described in paragraph (o)(3)(i) of this supplement.

(p) *Temporary exports or reexports.* If you are submitting a license application for the temporary export or reexport of an item (not eligible for the *temporary exports and reexports* provisions of License Exception TMP (see §740.9(a) of the EAR)) you must include the following certification in Block 24:

The items described on this license application are to be temporarily exported (or re-exported) for (state the purpose e.g., demonstration, testing, exhibition, etc.), used solely for the purpose authorized, and returned to the United States (or originating country) as soon as the temporary purpose has ended, but in no case later than one year of the date of export (or reexport), unless other disposition has been authorized in writing by the Bureau of Industry and Security.

(q) *Chemicals controlled for CW reasons under ECCN 1C350.* In addition to any supporting documentation required by part 748, you must also obtain from your consignee an End-Use Certificate for the export of chemicals controlled for CW reasons by ECCN 1C350 (except 1C350.a.20., a.24, and a.31) to non-States Parties (destinations *not* listed in Supplement No. 2 to part 745 of the EAR). See §745.2 of the EAR. In addition to the End-Use Certificate, you may still be required to obtain a Statement by Ultimate Consignee and Purchaser (Form BIS-711P) as

support documentation. Consult §§748.9 and 748.11 of the EAR.

(r) *Encryption review requests.* Enter, in Block 9 (Special Purpose) of the BIS-748P, "License Exception ENC" if you are submitting an encryption review request for License Exception ENC (§740.17 of the EAR) or "mass market encryption" if you are submitting an encryption review request under the mass market encryption provisions (§742.15(b)(2) of the EAR). If you seek an encryption review for another reason, enter "encryption—other".

[61 FR 12812, Mar. 25, 1996, as amended at 61 FR 64285, Dec. 4, 1996; 62 FR 25462, May 9, 1997; 63 FR 42229, Aug. 7, 1998; 64 FR 27146, May 18, 1999; 64 FR 47105, Aug. 30, 1999; 68 FR 35786, June 17, 2003]

SUPPLEMENT NO. 3 TO PART 748—BIS-711, STATEMENT BY ULTIMATE CONSIGNEE AND PURCHASER INSTRUCTIONS

All information must be typed or legibly printed in each appropriate Block or Box.

Block 1: Ultimate Consignee. The Ultimate Consignee must be the person abroad who is actually to receive the material for the disposition stated in Block 2. A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable as the Ultimate Consignee.

Block 2: Disposition or Use of Items by Ultimate Consignee named in Block 1. Place an (X) in "A.," "B.," "C.," "D.," and "E.," as appropriate, and fill in the required information.

Block 3: Nature of Business of Ultimate Consignee named in Block 1. Complete both "A" and "B".

Possible choices for "A" include: broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc.

Possible choices for "B" include: contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.

Block 4: Additional Information. Provide any other information not appearing elsewhere on the form such as other parties to the transaction, and any other material facts that may be of value in considering license applications supported by this statement.

Block 5: Assistance in Preparing Statement. Name all persons, other than employees of the ultimate consignee or purchaser, who assisted in the preparation of this form.

Block 6: Ultimate Consignee. Enter the requested information and sign the statement in ink. (For a definition of ultimate consignee, see §748.5(e) of this part.)

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Block 7: Purchaser. This form must be signed in ink by the Purchaser, if the Purchaser is not the same as the Ultimate Consignee identified in Block 1. (For a definition of purchaser, see §748.5(c) of this part.)

Block 8: Certification for Exporter. This Block must be completed to certify that no

correction, addition, or alteration on this form was made subsequent to the signing by the Ultimate Consignee in Block 6 and Purchaser in Block 7.

[61 FR 12812, Mar. 25, 1996, as amended at 65 FR 42568, July 10, 2000]

**SUPPLEMENT NO. 4 TO PART 748—AUTHORITIES ADMINISTERING IMPORT CERTIFICATE/ DELIVERY VERIFICATION (IC/DV) AND END USE CERTIFICATE SYSTEMS IN FOREIGN COUNTRIES**

Country	IC/DV Authorities	System administered
Argentina	Secretaria Ejecutiva de la Comision Nacional de Control de Exportaciones Sensitivas y Material Belico Balcarce 362—Ier. piso Capital Federal—CP 1064 Buenos Aires Tel. 334-0738, Fax 331-1618	IC/DV
Australia	Director, Strategic Trade Policy and Operations, Industry & Procurement Infrastructure Division, Department of Defence, Campbell Park 4-1-53, Canberra ACT 2600 Phone: +61 (0)2 6266 3717, Fax: +61 (0)2 6266 2997	IC/DV
Austria	Bundesministerium fur Handel Gewerbe und Industrie Landstr. Haupstr. 55-57, Vienna 1031	IC/DV
Belgium	Ministere Des Affaires Economiques, Administration Des Relations Economiques Rue General Leman, 60 1040 Bruxelles Phone: 02/206.58.16, Fax: 02/230.83.22	IC/DV
Bulgaria	Ministry of Trade 12 Al. Batenberg 1000 Sofia	IC/DV
China, People's Republic of	Technology Import and Export Department MOFTEC No. 2 Dong Chang An Street Beijing, Telephone: 651-97-355, Telex: 22478 MFERTCN	PRC End-User Certificate
Czech Republic	Federal Ministry of Foreign Trade Head of Licensing Politických Veznu 20 112 49 Praha 1	IC/DV
Denmark	Handelsministeriets Licenskontor Kampmannsgade 1, DK 1604, Copenhagen V IC's also issued by Danmarks Nationalbank Holmens Kanal 17, Copenhagen K Custom-houses	IC/DV DV
Finland	Helsingin Piiiritullikamari, Kanavakatu 6 (or P.O. Box 168) 00161 Helsinki	IC/DV
France	Ministere de l'Economie et des Finances Direction Generale des Douanes et Droits Indirects Division des Affaires Juridiques et Contentieuses 8, Rue de la Tour des Dames, Bureau D/3, 75436, Paris Codex 09	IC/DV
Germany	Bundesamt fur gewerbliche Wirtschaft Frankfurter Strasse 29-31 65760 Eschborn	IC/DV
Greece	Banque de Greece, Direction des Transactions Commerciales avec l'Etranger Athens	IC/DV
Hong Kong	Trade Department, Ocean Centre, Canton Road, Tsimshatsui, Kowloon,	IC/DV
Hungary	Ministry of International Economic Relations Export Control Office 1054 Budapest P.O. Box 728 H-1365, Hold Str. 17	IC/DV
India	<i>For small scale industries and entities, and those not elsewhere specified:</i> Deputy Director General of Foreign Trade Udyog Bhawan, Maulana Azad Road New Delhi 11011 <i>For the "organized" sector, except for computers and related equipment:</i> Directorate General of Technical Development, Udyog Bhawan, Maulana Azad Road, New Delhi 11011 <i>For Defense organizations:</i> Defense Research and Development Organization Room No. 224, "B" Wing Sena Bhawan, New Delhi 110011 <i>For computers and related electronic items:</i> Department of Electronics, Lok Nayak Bhawan, New Delhi 110003 <i>For any of the above:</i> Assistant Director, Embassy of India, Commerce Wing, 2536 Massachusetts Ave. NW, Washington D.C. 20008—	Indian IC Indian IC Indian IC Indian IC
Ireland, Republic of	Department of Industry, Trade, Commerce and Tourism, Frederick House, South Frederick Street, Dublin 2	IC/DV
Italy	Ministero del Commercio con l'Estero Direzione Generale delle Importazioni e delle Esportazioni, Div. III, Rome or: Dogana Italiana (of the town where import takes place)	IC/DV
Japan	Ministry of International Trade and Industry in: Fukuoka, Hiroshima, Kanmon (Kitakyushu-shi), Kobe, Nagoya, Osaka, Sapporo, Sendai, Shikoku (Takamatsu-shi), Shimizu, Tokyo, and Yokohama Japanese Customs Offices	IC/DV

Country	IC/DV Authorities	System administered
Korea, Republic of .....	Trade Administration Division Trade Bureau Ministry of Trade and Industry Jungang-Dong, Kyonggi-Do, Building 3 Kwachon	IC
	Republic of Korea Customs House	DV
Liechtenstein .....	Swiss Federal Office for Foreign Economic Affairs, Import and Export Division Zieglerstrasse 30, CH-3003 Bern	IC/DV
Luxembourg .....	Office des Licences Avenue de la Liberte, 10	IC/DV
Netherlands .....	Centrale Dienst voor In-en Uitvoer Engelse Kamp 2, Groningen	IC/DV
New Zealand .....	Comptroller for Customs P.O. Box 2218, Wellington	IC/DV
Norway .....	Handelsdepartementet Direktoratet for Eksport-og-Importregulering Fr. Nansens plass 5, Oslo	IC/DV
Pakistan .....	Chief Controller of Imports and Exports 5, Civic Center Islamabad	IC
	Joint Science Advisor, Ministry of Science and Technology, Secretariat Block 'S', Islamabad	DV
Poland .....	Ministry of Foreign Economic Relations Department of Commodities and Services Plac Trzech Krzyzy 5, Room 358 00-507 Warsaw	IC/DV
Portugal .....	Reparticao do Comercio Externo Direccao-Geral do Comercio Secretaria de Estado do Comercio Ministerio da Economia, Lisbon	IC/DV
Romania .....	National Agency for Control of Strategic Exports and Prohibition of Chemical Weapons, 13, Calea 13 Septembrie Casa (or P.O. Box 5-10) Republicii, Gate A 1, Bucharest, Sector 5, Phone: 401-311-2083, Fax: 401-311-1265	IC/DV
Singapore .....	Controller of Imports and Exports, Trade Development Board World Trade Centre, 1 Maritime Square, Telok Blangah Road,	IC/DV
Slovakia .....	Ministry of Foreign Affairs Licensing-Registration Department Spitalska 8, 813 15 Bratislava	IC
Spain .....	Secretary of State for Commerce Paseo la Castellana 162, Madrid 28046	IC/DV
Sweden .....	The Association of Swedish Chambers of Commerce & Industry P.O. Box 16050, S-103 22 Stockholm Office: Vastra Tradgardsgatan 9	IC/DV
Switzerland .....	Swiss Federal Office for Foreign Economic Affairs, Import and Export Division, Zieglerstrasse 30 CH-3003 Bern	IC/DV
Taiwan .....	Board of Foreign Trade Ministry of Economic Affairs 1 Hu-Kou Street, Taipei Science-based Industrial Park Administration No. 2 Hsin Ann Road, Hsinchu Export Processing Zone Administration 600 Chiachang Road Nantz, Kaohsiung	IC/DV
Turkey .....	Ministry of Commerce, Department of Foreign Commerce, Ankara	IC
	Head Customs Office at the point of entry	DV
United Kingdom .....	Department of Trade and Industry Export Licensing Branch Millbank Tower Millbank London, SW1P 4QU	IC
	H.M. Customs and Excise, King's Beam House, Mark Lane London, E.C. 3	DV

[61 FR 12812, Mar. 25, 1996, as amended at 62 FR 25463, May 9, 1997; 64 FR 47105, Aug. 30, 1999]

SUPPLEMENT NO. 5 TO PART 748—U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE

The United States participates in an Import Certificate/Delivery Verification procedure. Under this procedure, U.S. importers are sometimes required to provide their foreign suppliers with an U.S. International Import Certificate that is validated by the U.S. Government. This certificate tells the government of the exporter's country that the items covered by the certificate will be imported into the U.S. Economy and will not be reexported except as authorized by U.S. export control regulations. In addition, in some cases, the exporter's government may require a delivery verification. Under this procedure, the U.S. Customs Service validates a certificate confirming that the items have entered the U.S. economy. The U.S. importer must return this certificate to the foreign exporter.

This supplement establishes the procedures and requirements of BIS with respect to both

of these programs. Paragraph (a) of this supplement contains the requirements and procedures of the U.S. International Import Certificate procedure. Paragraph (b) of this supplement contains the requirements and procedures of the Delivery Verification procedure.

(a) U.S. International Import Certificates. If you are a U.S. importer, a foreign supplier may request you to obtain a U.S. import certificate. The reason for this request is that the exporter's government requires a U.S. import certificate as a condition to issuing an export license. To obtain such a certificate you will have to fill in and execute the U.S. International Import Certificate form (Form BIS-645P/ATF-4522/DSP-53) and submit it to the U.S. government agency that has jurisdiction over the items you are importing. In doing so, you will be making a representation to the United States Government that you will import the items described in the certificate into the United States or if not so imported, you will not divert, transship or reexport them to another

destination with the explicit approval of the U.S. government agency that has jurisdiction over those items. (Representations that items will be entered into the U.S. do not preclude the temporary unloading of items in a foreign trade zone for subsequent entry into the economy of the U.S.) If the items described in the certificate are subject to U.S. Department of Commerce jurisdiction, the Department will validate the certificate and return it to you. You may then send the certificate to your foreign supplier. In this way the government of the exporting country is assured that the items will become subject to the export control laws of the United States.

(1) Items for which the U.S. Department of Commerce issues U.S. International Import Certificates and forms to use. The Department of Commerce issues U.S. International Import Certificates for the following types of items.

(i) Items controlled for National Security reasons. Items under the export licensing jurisdiction of BIS that are identified as controlled for national security reasons on the Commerce Control List (Supplement No. 1 to part 774 of the EAR). You will need to submit in triplicate a completed Form BIS-645P/ATF-4522/DSP-53;

(ii) Nuclear equipment and materials. Items subject to the export licensing jurisdiction of the Nuclear Regulatory Commission for nuclear equipment and materials. (see 10 CFR part 110). You will need to submit in quadruplicate a completed Form BIS-645P/ATF-4522/DSP-53; and

(iii) Munitions Items. Items listed on the U.S. Munitions List (see 22 CFR part 121) that do not appear on the more limited U.S. Munitions Import List (27 CFR 47.21). You will need to submit in triplicate a completed Form BIS-645P. For triangular transactions (See paragraph (a)(5) of this supplement) involving items on the U.S. Munitions List, you must contact the Department of State, Office of Defense Trade Controls and use Form BIS-645P/ATF-4522/DSP-53. You should contact the Treasury Department, Bureau of Alcohol, Tobacco and Firearms for items appearing on the U.S. Munitions Import List. You will need to use Form ATF-4522.

(2) Where to submit forms. U.S. International Import Certificates and requests to amend certificates may be presented for validation either in person or by mail at the following locations.

(i) By mail to the Bureau of Industry and Security, P.O. Box 273, Washington D.C. 20044. Attn: Import Certificate Request; or

(ii) In person or by mail at one of the following Department of Commerce U.S. and Foreign Commercial Service District Offices:

- |             |                |
|-------------|----------------|
| Boston, MA  | Chicago, IL    |
| Buffalo, NY | Cincinnati, OH |

- |                 |                   |
|-----------------|-------------------|
| Cleveland, OH   | Philadelphia, PA  |
| Dallas, TX      | Phoenix, AZ       |
| Detroit, MI     | Pittsburgh, PA    |
| Houston, TX     | Portland, OR      |
| Kansas City, MO | St. Louis, MO     |
| Los Angeles, CA | San Francisco, CA |
| Miami, FL       | Savannah, GA      |
| New Orleans, LO | Seattle, WA       |
| New York, NY    | Trenton, NJ       |

(3) U.S. International Import Certificate validity periods. The U.S. International Import Certificate must be submitted to the foreign government within six months from the date of certification by the U.S. Department of Commerce. The expiration of this six-month period in no way affects the responsibility of the importer to fulfill the commitments made in obtaining the certificate. If the certificate is not presented to the government of the exporting country before the expiration of its validity period, the exporter must apply for a new certificate. The original unused U.S. International Import Certificate must be returned to BIS at the address specified in paragraph (a)(2)(i) of this supplement.

(4) Statements on the certificate or amendments are representations to the U.S. Government which continue in effect.

(i) All statements and representations made in a U.S. International Import Certificate or an amendment thereto, will be deemed to be continuing in nature until the transaction described in the certificate is completed and the items are delivered into the economy of the importing country.

(ii) Any change of fact or intention regarding to the transaction described in the certificate shall be promptly disclosed to BIS by the U.S. importer by presentation of an amended certificate. The amended certificate must describe all of the changes and be accompanied by the original certificate bearing the certification of BIS. If the original certificate has been transferred to the foreign exporter, you must, where possible, attempt to obtain the original certificate prior to applying for an amendment. If the original certificate is unobtainable because the foreign exporter has submitted it to the appropriate foreign government, or for any other reason, then you must submit a written statement with your amendment giving the reasons for your failure to submit the original certificate.

(5) Certificates for Triangular transaction (items will not enter the U.S. or applicant is not sure that they will enter the United States).

(i) In accordance with international practice, BIS will, upon request, stamp the certificate with a triangular symbol as notification to the government of the exporting country that the U.S. importer is uncertain whether the items will be imported into the

U. S. or knows that the items will not be imported into the U.S., but that, in any case, the items will not be delivered to any other destination except in accordance with the EAR.

(ii) The triangular symbol on a certificate U.S. International Import Certificate is not, in and of itself, an approval by BIS to transfer or sell items to a foreign consignee. Note that a triangular Certificate will not be issued covering foreign excess property sold abroad by the U.S. Department of Defense.

(6) Approval to export items to a foreign consignee prior to delivery under a U.S. International Import Certificate. The written approval of BIS is required before items covered by a U.S. International Import Certificate (whether or not bearing a triangular symbol) may be shipped to a destination other than the U.S. or Canada or sold to a foreign purchaser, and before title to or possession of such items may be transferred to a foreign transferee. This requirement does not apply after the items have been delivered in accordance with the undertaking set forth in the Certificate or if at the time of such shipment, sale, passage of possession or passage of title, a License Exception or a NLR provision of the EAR would authorize the transaction.

(i) If prior approval is required, a letter requesting authorization to release the shipment shall be submitted to BIS at the address listed in paragraph (a)(2)(i) of this supplement.

(ii) The letter must contain the certificate number; date issued; location of the issuing office; names, addresses, and identities of all parties to the complete transaction; and the quantity, dollar value, and description of the items. The letter must be accompanied by the U.S. International Import Certificate, and all other documentation required by the EAR for the item and country of ultimate destination, as identified in part 748 of the EAR. If requirements stated in part 748 of the EAR do not apply to your transaction, you must identify the intended end-use of the items in your letter.

(iii) Where the letter request is approved and is supported by a foreign import certificate, no further approval from BIS is required for the purchaser or transferee to resell or again transfer the items. However, where BIS approves a request that was not supported by a foreign import certificate, the person to whom approval is granted is required to inform the purchaser or transferee, in writing, that the items are to be shipped to the approved destination only and that no other disposition of the items is permitted without the approval of BIS.

(iv) If the transaction is approved, a validated letter of approval will be sent to the U.S. purchaser for retention in his records. Where a DV or other official government

confirmation of delivery is required, the letter will so indicate.

(v) If the items covered by a certificate have been imported into a destination other than the U.S. and the foreign exporter of the items requests a Delivery Verification, the person who obtained the certificate must obtain a DV from the person to whom the items were delivered in the actual importing country. (If a DV is unobtainable, other official government confirmation of delivery must be obtained.) The DV or other official government confirmation of delivery must be submitted to BIS together with an explanatory letter giving the U.S. International Import Certificate number, date issued, and location of issuing office. BIS will then issue Form ITA-6008, Delivery Compliance Notice, in two copies, the original of which must be forwarded to the country of origin in order to serve as evidence to the exporting country that the requirements of the U.S. Government have been satisfied with respect to delivery of the items.

(vi) Delivery, sale, or transfer of items to another U.S. purchaser.

(A) Items covered by a U.S. International Import Certificate may not be sold, and title to or possession of such items may not be transferred, to another U.S. purchaser or transferee before the items are delivered to the U.S. (or to an approved foreign destination, as provided by paragraph (a)(5) of this supplement), except in accordance with the provisions described in paragraph (a)(6) of this supplement. The provisions of this paragraph do not apply after the items have been delivered in accordance with the undertaking set forth in the certificate.

(B) Resale or transfer to another U.S. purchaser or transferee requires the prior approval of BIS only in cases where the buyer or transferee is listed in Supplement No. 1 to part 766 of the EAR. However, you, as the person who obtained the certificate are required to notify BIS of any change in facts or intentions relating to the transaction, and in all cases you will be held responsible for the delivery of the items in accordance with the EAR. You are required in all cases to secure, prior to sale or transfer, and to retain in your files in accordance with the recordkeeping provisions contained in part 762 of the EAR, written acceptance by the purchaser or transferee of:

(1) All obligations undertaken by, and imposed under the EAR, upon the holder of the certificate; and

(2) An undertaking that all subsequent sales or transfers will be made subject to the same conditions.

(iii) The responsibility of the certificate holder for obtaining a DV also applies to those cases where the items are resold to a U.S. purchaser (See paragraph (b)(1) of this supplement.

(vii) Reexport or transshipment of items after delivery to U.S. Items imported into the U.S. under the provisions of a U.S. International Import Certificate may not be reexported to any destination under the *intransit* provisions of License Exception TMP (see § 740.9(b)(1) of the EAR). However, all other provisions of the EAR applicable to items of domestic origin shall apply to the reexport of items of foreign origin shipped to the U.S. under a U.S. International Import Certificate.

(viii) Lost or destroyed U.S. International Import Certificates. If a U.S. International Import Certificate is lost or destroyed, a duplicate copy may be obtained by the person in the U.S. who executed the original U.S. International Import Certificate by submitting to any of the offices listed in paragraph (a)(2)(i) of this supplement new Form BIS-645P/ATF-4522/DSP-53 in the same way as an original request, except that the forms shall be accompanied by a letter detailing the circumstances under which the original certificate was lost or destroyed and certifying:

(A) That the original U.S. International Import Certificate No. \_\_\_\_\_, dated \_\_\_\_\_, issued to (name and address of U.S. importer) for import from (foreign exporter's name and address) has been lost or destroyed; and

(B) That if the original U.S. International Import Certificate is found, the applicant agrees to return the original or duplicate of the certificate to the Bureau of Industry and Security.

(ix) Unused U.S. International Import Certificates. If the transaction will not be completed and the U.S. International Import Certificate will not be used, return the certificate for cancellation to BIS at the address listed in paragraph (a)(2)(i) of this supplement.

(b) Delivery Verification Certificate. U.S. importers may be requested by their foreign suppliers to furnish them with a certified Form BIS-647P, Delivery Verification Certificate, covering items imported into the U.S. These requests are made by foreign governments to assure that strategic items shipped to the U.S. are not diverted from their intended destination. In these instances, the issuance of an export license by the foreign country is conditioned upon the subsequent receipt of a Delivery Verification Certificate from the U.S. importer. Accordingly, your compliance with your foreign exporter's request for a Delivery Verification is necessary to ensure your foreign exporter fulfills its government obligations and is able to participate in future transactions with you. Failure to comply may subject your exporter to penalties that may prevent future trade.

(1) The responsibility of a person or firm executing a U.S. International Import Certificate for providing the foreign exporter

with confirmation of delivery of the items includes instances where the items are resold or transferred to another U.S. person or firm prior to actual delivery to the U.S. or to an approved foreign destination. The person who executed the U.S. International Import Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in your files in accordance with the record-keeping provisions stated in part 762 of the EAR:

(i) Acceptance of the obligation to provide the purchaser or transferee with either the Delivery Verification (or other official government confirmation of delivery if a Delivery Verification is unobtainable) or assurance that this document was submitted to BIS; and

(ii) An undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor must transmit to the U.S. purchaser or transferee the U.S. International Import Certificate number covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

(2) Completion and certification of Delivery Verification Certificates. If you are requested by your foreign exporter to provide a Delivery Verification, you must obtain Form BIS-647P from a U.S. customs office or one of the offices listed in paragraph (a)(2) of this supplement and complete all blocks (except those below the line titled "To be completed by U.S. Customs Service") on the form. The language used in the block titled "Description of Goods" must describe the items in the same terms as those shown on the applicable U.S. International Import Certificate. Upon completion Form BIS-647P must be presented, in duplicate, to a U.S. customs office. The U.S. customs office will certify Form BIS-647P only where the import is made under a warehouse or consumption entry.

(3) Disposition of certified Delivery Verification Certificates. The importer must send the original certified Delivery Verification Certificate to the foreign exporter or otherwise dispose of it in accordance with the instructions of the exporting country. The duplicate copy will be retained by the U.S. customs office.

(4)(i) Issuance of a U.S. Delivery Compliance Notice in lieu of a Delivery Verification Certificate. If you are requested to provide a Delivery Verification Certificate but do not wish to disclose the name of your customer to the foreign exporter (e.g., in the event that the items are resold or transferred to another person or firm before the items enter the U.S.), you may submit an originally completed Form BIS-647P together with an explanatory letter requesting a Delivery Compliance Notice, to BIS at the address listed in (a)(2)(i) of this supplement.

(ii) BIS will provide you with a notice signifying that the items were imported into the U.S. and that a satisfactory DV has been submitted to BIS. You must then forward the original notice to your foreign exporter for submission to the foreign government. A copy of the notice should be retained in your files in accordance with the recordkeeping provisions stated in part 762 of the EAR.

(5)(i) Lost or destroyed Delivery Verification Certificate. When a Delivery Verification Certificate is lost or destroyed, the U.S. importer must submit a letter to BIS at the address listed in paragraph (a)(2)(i) of this supplement certifying that:

(A) The original Delivery Verification Certificate has been lost or destroyed;

(B) The circumstances under which it was lost or destroyed;

(C) The type of customs entry (warehouse or consumption), entry number, and date of entry; and

(D) The number and date of the related U.S. International Import Certificate.

(ii) BIS will, in applicable cases, notify the exporting government that a Delivery Verification Certificate been issued.

(c) Penalties and sanctions for violations. The enforcement provisions of part 764 and Supplement No. 2 to part 736 of the EAR apply to transactions involving imports into the U.S. covered by this supplement and to both foreign and U.S. parties involved in a violation of this supplement. Any provisions of part 764 and Supplement No. 2 to part 736 of the EAR which, by their terms, relate to "exports" or "exports from the U.S." are also deemed to apply and extend to imports into the U.S., applications for U.S. International Import Certificates (Forms BIS-645P presented to U.S. Department of Commerce for certification), U.S. International Import Certificates, and Delivery Verification Certificates, described in this supplement. (Applications the documents described in this supplement, are included within the definition of export control documents provided in part 772 of the EAR.) Refer to § 764.3 of the EAR for more information.

[61 FR 12812, Mar. 25, 1996, as amended at 61 FR 64285, Dec. 4, 1996; 62 FR 25463, May 9, 1997]

SUPPLEMENT NO. 6 TO PART 748—AUTHORITIES ISSUING IMPORT CERTIFICATES UNDER THE FIREARMS CONVENTION [RESERVED]

[Status of Convention as of April 13, 1999 had not entered into force.]

[64 FR 17974, Apr. 13, 1999]

## PART 750—APPLICATION PROCESSING, ISSUANCE OR AND DENIAL

Sec.

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750.11 Shipping tolerances.

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 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 August 7, 2003, 66 FR 47833, August 11, 2003.

SOURCE: 61 FR 12829, Mar. 25, 1996, unless otherwise noted.

### § 750.1 Scope.

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part describes the Bureau of Industry and Security's (BIS) process for reviewing your application for a license and the applicable processing times for various types of applications. Information related to the issuance, denial, revocation, or suspension of a license or license application is provided along with the procedures on obtaining a duplicate or replacement license, the transfer of a license and shipping tolerances available on licenses. This part also contains instructions on obtaining the status of any pending application.

[62 FR 25463, May 9, 1997]

### § 750.2 Processing of Classification Requests and Advisory Opinions.

(a) *Classification requests.* All classification requests submitted in accordance with procedures described in § 748.3 (a) and (b) of the EAR will be answered within 14 calendar days after receipt. All responses will inform the person of the proper classification (e.g., whether or not the item is subject to the Export Administration Regulations