

SUPPLEMENT NO. 2 TO PART 768—ITEMS  
ELIGIBLE FOR EXPEDITED LICENSING  
PROCEDURES [RESERVED]

**PART 770—INTERPRETATIONS**

Sec.

770.1 Introduction.

770.2 Item interpretations.

770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2003, 66 FR 47833, August 11, 2003.

**§ 770.1 Introduction.**

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part provides commodity, technology, and software interpretations. These interpretations clarify the scope of controls where such scope is not readily apparent from the Commerce Control List (CCL) (see Supplement No. 1 to part 774 of the EAR) and other provisions of the Export Administration Regulations.

**§ 770.2 Item interpretations.**

(a) *Interpretation 1: Anti-friction bearing or bearing systems and specially designed parts.* (1) Anti-friction bearings or bearing systems shipped as spares or replacements are classified under Export Control Classification Numbers (ECCNs) 2A001, 2A002, 2A003, 2A004, 2A005, and 2A006 (ball, roller, or needle-roller bearings and parts). This applies to separate shipments of anti-friction bearings or bearing systems and anti-friction bearings or bearing systems shipped with machinery or equipment for which they are intended to be used as spares or replacement parts.

(2) An anti-friction bearing or bearing system physically incorporated in a segment of a machine or in a complete machine prior to shipment loses its identity as a bearing. In this scenario, the machine or segment of machinery containing the bearing is the item subject to export control requirements.

(3) An anti-friction bearing or bearing system not incorporated in a segment of a machine prior to shipment, but shipped as a component of a complete unassembled (knocked-down) ma-

chine, is considered a component of a machine. In this scenario, the complete machine is the item subject to export license requirements.

(b) *Interpretation 2: Classification of “parts” of machinery, equipment, or other items—(1) An assembled machine or unit of equipment is being exported.* In instances where one or more assembled machines or units of equipment are being exported, the individual component parts that are physically incorporated into the machine or equipment do not require a license. The license or general exception under which the complete machine or unit of equipment is exported will also cover its component parts, provided that the parts are normal and usual components of the machine or equipment being exported, or that the physical incorporation is not used as a device to evade the requirement for a license.

(2) *Parts are exported as spares, replacements, for resale, or for stock.* In instances where parts are exported as spares, replacements, for resale, or for stock, a license is required only if the appropriate entry for the part specifies that a license is required for the intended destination.

(c) *Interpretation 3: Wire or cable cut to length.* (1) Wire or cable may be included as a component of a system or piece of equipment, whether or not the wire or cable is cut to length and whether or not it is fitted with connectors at one or both ends, so long as it is in normal quantity necessary to make the original installation of the equipment and is necessary to its operation.

(2) Wire or cable exported as replacement or spares, or for further manufacture is controlled under the applicable wire or cable ECCN only. This includes wire or cable, whether or not cut to length or fitted with connectors at one or both ends.

(d) *Interpretation 4: Telecommunications equipment and systems.* Control equipment for paging systems (broadcast radio or selectively signalled receiving systems) is defined as circuit switching equipment in Category 5 of the CCL.

(e) *Interpretation 5: Numerical control systems—(1) Classification of “Numerical Control” Units.* “Numerical control”

units for machine tools, regardless of their configurations or architectures, are controlled by their functional characteristics as described in ECCN 2B001.a. "Numerical control" units include computers with add-on "motion control boards". A computer with add-on "motion control boards" for machine tools may be controlled under ECCN 2B001.a even when the computer alone without "motion control boards" is not subject to licensing requirements under Category 4 and the "motion control boards" are not controlled under ECCN 2B001.b.

(2) *Export documentation requirement.*

(i) When preparing a license application for a numerical control system, the machine tool and the control unit are classified separately. If either the machine tool or the control unit requires a license, then the entire unit requires a license. If either a machine tool or a control unit is exported separately from the system, the exported component is classified on the license application without regard to the other parts of a possible system.

(ii) When preparing the Shipper's Export Declaration (SED) or Automated Export System (AES) record, a system being shipped complete (*i.e.*, machine and control unit), should be reported under the Schedule B number for each machine. When either a control unit or a machine is shipped separately, it should be reported under the Schedule B number appropriate for the individual item being exported.

(f) *Interpretation 6: Parts, accessories, and equipment exported as scrap.* Parts, accessories, or equipment that are being shipped as scrap should be described on the SED or AES record in sufficient detail to be identified under the proper ECCN. When commodities declared as parts, accessories, or equipment are shipped in bulk, or are otherwise not packaged, packed, or sorted in accordance with normal trade practices, the Customs Officer may require evidence that the shipment is not scrap. Such evidence may include, but is not limited to, bills of sale, orders and correspondence indicating whether the commodities are scrap or are being exported for use as parts, accessories, or equipment.

(g) *Interpretation 7: Scrap arms, ammunition, and implements of war.* Arms, ammunition, and implements of war, as defined in the U.S. Munitions List, and are under the jurisdiction of the U.S. Department of State (22 CFR parts 120 through 130), except for the following, which are under the jurisdiction of the Department of Commerce:

(1) Cartridge and shell cases that have been rendered useless beyond the possibility of restoration to their original identity by means of excessive heating, flame treatment, mangling, crushing, cutting, or by any other method are "scrap".

(2) Cartridge and shell cases that have been sold by the armed services as "scrap", whether or not they have been heated, flame-treated, mangled, crushed, cut, or reduced to scrap by any other method.

(3) Other commodities that may have been on the U.S. Munitions List are "scrap", and therefore under the jurisdiction of the Department of Commerce, if they have been rendered useless beyond the possibility of restoration to their original identity only by means of mangling, crushing, or cutting. When in doubt as to whether a commodity covered by the Munitions List has been rendered useless, exporters should consult the Office of Defense Trade Controls, U.S. Department of State, Washington, DC 20520, or the Exporter Counseling Division, Office of Exporter Services, Room 1099A, U.S. Department of Commerce, Washington, DC 20230, before reporting a shipment as metal scrap.

(h) *Interpretation 8: Military automotive vehicles and parts for such vehicles—(1) Military automotive vehicles.* (i) For purposes of U.S. export controls, military automotive vehicles "possessing or built to current military specifications differing materially from normal commercial specifications" may include, but are not limited to, the following characteristics:

- (A) Special fittings for mounting ordnance or military equipment;
- (B) Bullet-proof glass;
- (C) Armor plate;
- (D) Fungus preventive treatment;
- (E) Twenty-four volt electrical systems;

(F) Shielded electrical system (electronic emission suppression); or

(G) Puncture-proof or run-flat tires.

(ii) *Automotive vehicles fall into two categories.*

(A) *Military automotive vehicles on the Munitions List, new and used.* Automotive vehicles in this category are primarily combat (fighting) vehicles, with or without armor and/or armament, “designed for specific fighting function.” These automotive vehicles are licensed for export by the U.S. Department of State (22 CFR parts 120 through 130).

(B) *Military automotive vehicles not on the U.S. Munitions List, new and used.* Automotive vehicles in this category are primarily transport vehicles designed for non-combat military purposes (transporting cargo, personnel and/or equipment, and/or for to wing other vehicles and equipment over land and roads in close support of fighting vehicles and troops). These automotive vehicles are licensed for export by the U.S. Department of Commerce.

(iii) *Parts for military automotive vehicles.* Functional parts are defined as those parts making up the power train of the vehicles, including the electrical system, the cooling system, the fuel system, and the control system (brake and steering mechanism), the front and rear axle assemblies including the wheels, the chassis frame, springs and shock absorbers. Parts specifically designed for military automotive vehicles on the Munitions List are licensed for export by the U.S. Department of State (22 CFR parts 120 through 130).

(iv) *General instructions.* Manufacturers of non-Munitions List automotive vehicles and/or parts will know whether their products meet the conditions described in this paragraph (h). Merchant exporters and other parties who are not sure whether their products (automotive vehicles and/or parts) meet these conditions should check with their suppliers for the required information before making a shipment under general exception or submitting an application to BIS for a license.

(2) [Reserved]

(i) *Interpretation 9: Aircraft, parts, accessories and components.* Aircraft, parts, accessories, and components defined in Categories VIII and IX of the

Munitions List are under the export licensing authority of the U.S. Department of State (22 CFR parts 120 through 130). All other aircraft, and parts, accessories and components therefor, are under the export licensing authority of the U.S. Department of Commerce. The following aircraft, parts, accessories and components are under the licensing authority of the U.S. Department of Commerce:

(1) Any aircraft (except an aircraft that has been demilitarized, but including aircraft specified in paragraph (i)(2) of this section) that conforms to a Federal Aviation Agency type certificate in the normal, utility, acrobatic, transport, or restricted category, provided such aircraft has not been equipped with or modified to include military equipment, such as gun mounts, turrets, rocket launchers, or similar equipment designed for military combat or military training purposes.

(2) Only the following military aircraft, demilitarized (aircraft not specifically equipped, reequipped, or modified for military operations):

(i) Cargo, bearing designations “C-45 through C-118 inclusive,” and “C-121”;

(ii) Trainers, bearing a “T” designation and using piston engines;

(iii) Utility, bearing a “U” designation and using piston engines;

(iv) Liaison, bearing an “L” designation; and

(v) Observation, bearing an “O” designation and using piston engines.

(3) All reciprocating engines.

(4) Other aircraft engines not specifically designed or modified for military aircraft.

(5) Parts, accessories, and components (including propellers), designed exclusively for aircraft and engines described in paragraphs (i)(1), (i)(2), (i)(3), and (i)(4) of this section.

(6) General purpose parts, accessories, and components usable interchangeably on either military or civil aircraft.

(j) *Interpretation 10: Civil aircraft inertial navigation equipment.* (1) The Department of Commerce has licensing jurisdiction over exports and reexports to all destinations of inertial navigation systems, inertial navigation equipment, and specially designed components therefor for “civil aircraft”.

(2) The Department of State, retains jurisdiction over all software and technology for inertial navigation systems and navigation equipment, and specially designed components therefor, for shipborne use, underwater use, ground vehicle use, spaceborne use or use other than "civil aircraft".

(k) *Interpretation 11: Precursor chemicals.* The following chemicals are controlled by ECCN 1C350. The appropriate Chemical Abstract Service Registry (C.A.S.) number and synonyms (i.e., alternative names) are included to help you determine whether or not your chemicals are controlled by this entry.

- (1) (C.A.S. #1341-49-7) Ammonium hydrogen bifluoride  
Acid ammonium fluoride  
Ammonium bifluoride  
Ammonium difluoride  
Ammonium hydrofluoride  
Ammonium hydrogen bifluoride  
Ammonium hydrogen difluoride  
Ammonium monohydrogen difluoride
- (2) (C.A.S. #7784-34-1) Arsenic trichloride  
Arsenic (III) chloride  
Arsenous chloride  
Fuming liquid arsenic  
Trichloroarsine
- (3) (C.A.S. #76-93-7) Benzoic acid  
.alpha.,.alpha.-Diphenyl-.alpha.-hydroxyacetic acid  
Diphenylglycolic acid  
.alpha.,.alpha.-Diphenylglycolic acid  
Diphenylhydroxyacetic acid  
.alpha.-Hydroxy-2,2-diphenylacetic acid  
2-Hydroxy-2,2-diphenylacetic acid  
.alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid  
Hydroxydiphenylacetic acid
- (4) (C.A.S. #107-07-3) 2-Chloroethanol  
2-Chloro-1-ethanol  
Chloroethanol  
2-Chloroethyl alcohol  
Ethene chlorohydrin  
Ethylchlorohydrin  
Ethylene chlorohydrin  
Ethylene chlorohydrin  
Glycol chlorohydrin  
Glycol monochlorohydrin  
2-Hydroxyethyl chloride
- (5) (C.A.S. #78-38-6) Diethyl ethylphosphonate Ethylphosphonic acid diethyl ester
- (6) (C.A.S. #15715-41-0) Diethyl methylphosphonite

- Diethoxymethylphosphine  
Diethyl methanephosphonite  
0,0-Diethyl methylphosphonite  
Methyldiethoxyphosphine  
Methylphosphonous acid diethyl ester
- (7) (C.A.S. #2404-03-7) Diethyl-N, N-dimethylphosphoro-amidate  
N,N-Dimethyl-O,O'-diethyl phosphoramidate  
Diethyl dimethylphosphoramidate  
Dimethylphosphoramidic acid diethyl ester
- (8) (C.A.S. #762-04-9) Diethyl phosphite  
Diethoxyphosphine oxide  
Diethyl acid phosphite  
Diethyl hydrogen phosphite  
Diethoxy phosphonate  
Hydrogen diethyl phosphite
- (9) (C.A.S. #100-37-8) N, N-Diethylethanolamine  
N,N-Diethyl-2-aminoethanol  
Diethyl (2-hydroxyethyl) amine  
N,N-Diethyl-N-(.beta.-hydroxyethyl) amine  
N,N-Diethyl-2-hydroxyethylamine  
Diethylaminoethanol  
2-(Diethylamino) ethanol  
2-(Diethylamino)ethyl alcohol  
N,N-Diethylmonoethanolamine  
(2-Hydroxyethyl) diethylamine  
2-Hydroxytriethylamine
- (10) (C.A.S. #5842-07-9) N,N-Diisopropyl-.beta.-aminoethane thiol  
2-(Diisopropylamino) ethanethiol  
Diisopropylaminoethanethiol  
.beta.-Diisopropylaminoethanethiol  
2-(bis(1-Methylethyl)amino) ethanethiol
- (11) (C.A.S. #4261-68-1) N, N-Diisopropyl-.2-aminoethyl chloride hydrochloride
- (12) (C.A.S. #96-80-0) N,N-Diisopropyl-.beta.-aminoethanol  
N,N-Diisopropyl-2-aminoethanol  
2-(Diisopropylamino) ethanol  
(N,N-Diisopropylamino) ethanol  
2-(Diisopropylamino) ethyl alcohol  
N,N-Diisopropylethanolamine
- (13) (C.A.S. #96-79-7) N,N-Diisopropyl-.beta.-aminoethyl chloride  
2-Chloro-N,N-diisopropylethylamine  
1-Chloro-N,N-diisopropylaminoethane  
2-Chloro-N,N-diisopropylethylamine  
N-(2-chloroethyl)-N-(1-methylethyl)-2-propanamine  
N-(2-Chloroethyl) diisopropylamine  
N,N-Diisopropyl-2-chloroethylamine

## § 770.2

- 1-(Diisopropylamino)-2-chloroethane  
 2-(Diisopropylamino)ethyl chloride  
 Diisopropylaminoethyl chloride  
 .beta.-Diisopropylaminoethyl chloride
- (14) (C.A.S. #108-18-9) Diisopropylamine  
 N,N-Diisopropylamine  
 N-(1-Methylethyl)-2-propanamine
- (15) (C.A.S. #6163-75-3) Dimethyl ethylphosphonate  
 Dimethyl ethanephosphonate  
 Ethylphosphonic acid dimethyl ester
- (16) (C.A.S. #756-79-6) Dimethyl methylphosphonate  
 Dimethoxymethyl phosphine oxide  
 Dimethyl methanephosphonate  
 Methanephosphonic acid dimethyl ester  
 Methylphosphonic acid dimethyl ester
- (17) (C.A.S. #868-85-9) Dimethyl phosphite  
 Dimethoxyphosphine oxide  
 Dimethyl acid phosphite  
 Dimethyl hydrogen phosphite  
 Dimethyl phosphonate  
 Hydrogen dimethyl phosphite  
 Methyl phosphate
- (18) (C.A.S. #124-40-3) Dimethylamine  
 N-Methyl methanamine
- (19) (C.A.S. #506-59-2) Dimethylamine hydrochloride  
 Dimethylammonium chloride  
 N-Methyl methanamine hydrochloride
- (20) (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL)  
 Methylphosphonous acid 2-(bis(1-methylethyl)amino)ethyl ethyl ester
- (21) (C.A.S. #1498-40-4)  
 Ethylphosphonous dichloride  
 Dichloroethylphosphine  
 Ethyl phosphonous dichloride  
 Ethyldichlorophosphine
- (22) (C.A.S. #430-78-4) Ethylphosphonous difluoride  
 Ethyldifluorophosphine
- (23) (C.A.S. #1066-50-8)  
 Ethylphosphonyl dichloride  
 Dichloroethylphosphine oxide  
 Ethanephosphonyl chloride  
 Ethylphosphinic dichloride  
 Ethylphosphonic acid dichloride  
 Ethylphosphonic dichloride
- (24) (C.A.S. #753-98-0) Ethylphosphonyl difluoride  
 Ethyl difluorophosphite

## 15 CFR Ch. VII (1-1-04 Edition)

- Ethyldifluorophosphine oxide  
 Ethylphosphonic difluoride
- (25) (C.A.S. #7664-39-3) Hydrogen fluoride  
 Anhydrous hydrofluoric acid  
 Fluorhydric acid  
 Fluorine monohydride  
 Hydrofluoric acid gas
- (26) (C.A.S. #3554-74-3) 3-Hydroxy-1-methylpiperidine  
 3-Hydroxy-N-methylpiperidine  
 1-Methyl-3-hydroxypiperidine  
 N-Methyl-3-hydroxypiperidine  
 1-Methyl-3-piperidinol  
 N-Methyl-3-piperidinol
- (27) (C.A.S. #76-89-1) Methyl benzilate  
 Benzilic acid methyl ester  
 .alpha.-Hydroxy-.alpha.-phenylbenzeneacetic acid methyl ester  
 Methyl .alpha.-phenylmandelate  
 Methyl diphenylglycolate
- (28) (C.A.S. #676-83-5)  
 Methylphosphonous dichloride  
 Dichloromethylphosphine  
 Methylchlorophosphine  
 Methylphosphorus dichloride
- (29) (C.A.S. #753-59-3)  
 Methylphosphonous difluoride  
 Difluoromethylphosphine  
 Methyldifluorophosphine
- (30) (C.A.S. #676-97-1)  
 Methylphosphonyl dichloride  
 Dichloromethylphosphine oxide  
 Methanephosphonodichloridic acid  
 Methanephosphonyl chloride  
 Methylphosphonic acid dichloride  
 Methylphosphonic dichloride  
 Methylphosphonodichloridic acid  
 Methylphosphonyl chloride
- (31) (C.A.S. #676-99-3)  
 Methylphosphonyl difluoride  
 Difluoromethylphosphine oxide  
 Methyl difluorophosphite  
 Methylphosphonic difluoride
- (32) (C.A.S. #10025-87-3) Phosphorus oxychloride  
 Phosphonyl trichloride  
 Phosphoric chloride  
 Phosphoric trichloride  
 Phosphoroylchloride  
 Phosphoroyltrichloride  
 Phosphorus chloride oxide  
 Phosphorus monoxide trichloride  
 Phosphorus oxide trichloride  
 Phosphorus oxytrichloride  
 Phosphorus trichloride oxide  
 Phosphoryl trichloride  
 Trichlorophosphine oxide

## Bureau of Industry and Security, Commerce

## § 770.2

- Trichlorophosphorus oxide  
 (33) (C.A.S. #10026-13-8) Phosphorus pentachloride  
 Pentachlorophosphorane  
 Pentachlorophosphorus  
 Phosphoric chloride  
 Phosphorus(V) chloride  
 Phosphorus perchloride  
 (34) (C.A.S. #1314-80-3) Phosphorus pentasulfide  
 Diphosphorus pentasulfide  
 Phosphoric sulfide  
 Phosphorus persulfide  
 Phosphorus sulfide  
 (35) (C.A.S. #7719-12-2) Phosphorus trichloride  
 Phosphorus chloride  
 Trichlorophosphine  
 (36) C.A.S. #75-97-8) Pinacolone  
 tert-Butyl methyl ketone  
 2,2-Dimethyl-3-butanone  
 3,3-Dimethyl-2-butanone  
 2,2-Dimethylbutanone  
 3,3-Dimethylbutanone  
 1,1-Dimethylethyl methyl ketone  
 Methyl tert-butyl ketone  
 Pinacolin  
 Pinacoline  
 1,1,1-Trimethylacetone  
 (37) (C.A.S. #464-07-3) Pinacolyl alcohol  
 tert-Butyl methyl carbinol  
 2,2-Dimethyl-3-butanol  
 3,3-Dimethyl-2-butanol  
 1-Methyl-2,2-dimethylpropanol  
 (38) (C.A.S. #151-50-8) Potassium cyanide  
 (39) (C.A.S. #7789-23-3) Potassium fluoride  
 Potassium monofluoride  
 (40) (C.A.S. #7789-29-9) Potassium hydrogen fluoride  
 Hydrogen potassium difluoride  
 Hydrogen potassium fluoride  
 Potassium acid fluoride  
 Potassium bifluoride  
 Potassium hydrogen difluoride  
 Potassium monohydrogen difluoride  
 (41) (C.A.S. #1619-34-7) 3-Quinuclidinol  
 1-Azabicyclo(2.2.2)octan-3-ol  
 3-Hydroxyquinuclidine  
 (42) (C.A.S. #3731-38-2) 3-Quinuclidinone  
 1-Azabicyclo(2.2.2)octan-3-one  
 3-Oxyquinuclidine  
 Quinuclidone  
 (43) (C.A.S.) #1333-83-1) Sodium bifluoride  
 Sodium hydrogen difluoride  
 Sodium hydrogen fluoride  
 (44) (C.A.S. #143-33-9) Sodium cyanide  
 (45) (C.A.S. #7681-49-4) Sodium fluoride  
 Sodium monofluoride  
 (46) (C.A.S. #1313-82-2) Sodium sulfide  
 Disodium monosulfide  
 Disodium sulfide  
 Sodium monosulfide  
 Sodium sulphide  
 (47) (C.A.S. #10025-67-9) Sulfur Monochloride  
 (48) (C.A.S. #10545-99-0) Sulfur dichloride  
 (49) (C.A.S. #111-48-8) Thiodiglycol  
 Bis(2-hydroxyethyl) sulfide  
 Bis(2-hydroxyethyl) thioether  
 Di(2-hydroxyethyl) sulfide  
 Diethanol sulfide  
 2,2'-Dithiobis-(ethanol)  
 3-Thiapentane-1,5-diol  
 2,2'-Thiobisethanol  
 2,2'-Thiodiethanol  
 Thiodiethylene glycol  
 2,2'-Thiodiglycol  
 (50) C.A.S. #7719-09-7) Thionyl chloride  
 Sulfinyl chloride  
 Sulfinyl dichloride  
 Sulfur chloride oxide  
 Sulfur oxychloride  
 Sulfurous dichloride  
 Sulfurous oxychloride  
 Thionyl dichloride  
 (51) (C.A.S. #102-71-6) Triethanolamine  
 Alkanolamine 244  
 Nitrilotriethanol  
 2,2',2''-Nitrilotriethanol  
 2,2',2''-Nitrilotris(ethanol)  
 TEA  
 TEA (amino alcohol)  
 Tri (2-hydroxyethyl) amine  
 Triethanolamin  
 Tris (beta.-hydroxyethyl) amine  
 Tris (2-hydroxyethyl) amine  
 Trolamine  
 (52) (C.A.S. #637-39-8) Triethanolamine hydrochloride  
 (53) (C.A.S. #122-52-1) Triethyl phosphite  
 Phosphorous acid triethyl ester  
 Triethoxyphosphine  
 Tris(ethoxy)phosphine  
 (54) (C.A.S. #121-45-9) Trimethyl phosphite  
 Phosphorus acid trimethyl ester  
 Trimethoxyphosphine  
 (l) *Interpretation 12: Computers.* (1) Digital computers or computer systems classified under ECCN 4A003.a, .b, or .c, that qualify for "No License Required" (NLR) must be evaluated on the basis of CTP alone, to the exclusion of all

other technical parameters. Computers controlled in this entry for MT reasons are not eligible for License Exception CTP regardless of the CTP of the computer. Digital computers or computer systems classified under ECCN 4A003.a, .b, or .c that qualify for License Exception CTP must be evaluated on the basis of CTP, to the exclusion of all other technical parameters, except for parameters of Missile Technology concern, or ECCN 4A003.e (equipment performing analog-to-digital conversions exceeding the limits in ECCN 3A001.a.5.a). This License Exception does not authorize the export or reexport of computers controlled for MT purposes regardless of the CTP. Assemblies performing analog-to-digital conversions are evaluated under Category 3—Electronics, ECCN 3A001.a.5.a.

(2) Related equipment classified under ECCN 4A003.d, .e, .f, or .g may be exported or reexported under License Exceptions GBS or CIV. When related equipment is exported or reexported as part of a computer system, NLR or License Exception CTP is available for the computer system and the related equipment, as appropriate.

(m) *Interpretation 13: Encryption commodities and software controlled for EI reasons.* Encryption commodities and software controlled for EI reasons under ECCNs 5A002 and 5D002 may be pre-loaded on a laptop, handheld device or other computer or equipment and exported under the tools of trade provision of License Exception TMP or the personal use exemption under License Exception BAG, subject to the terms and conditions of such License Exceptions. This provision replaces the personal use exemption of the International Traffic and Arms Regulations (ITAR) that existed for such software prior to December 30, 1996. Neither License Exception TMP nor License Exception BAG contains a reporting requirement. Like other “information security” “software”, components, “electronic assemblies” or modules, the control status of encryption commodities and software is determined in Category 5, part 2 even if they are bundled, commingled or incorporated in a computer or other equipment. However, commodities and software specially designed for medical end-use

that incorporate an item in Category 5, part 2 are not controlled in Category 5, part 2. See Note 1 to Category 5, part 2 (“Information Security”) of Supplement No. 1 to Part 774 (the Commerce Control List) of the EAR.

(n) *Interpretation 14: Encryption commodity and software reviews.* Review of encryption commodities or software is required to determine the eligibility of certain encryption items under License Exception ENC (see §740.17 of the EAR) or to release certain encryption items from “EI” controls (see §742.15(b)(2) of the EAR). Note that subsequent bundling, patches, upgrades or releases, including name changes, may be exported or reexported under the applicable provisions of the EAR without further review as long as the functional encryption capacity of the originally reviewed product has not been modified or enhanced. This interpretation does not extend to products controlled under a different category on the CCL.

[61 FR 12920, Mar. 25, 1996, as amended at 61 FR 67450, Dec. 23, 1996; 62 FR 6686, Feb. 12, 1997; 62 FR 25469, 25470, May 9, 1997; 63 FR 50525, Sept. 22, 1998; 65 FR 62609, Oct. 19, 2000; 66 FR 49525, Sept. 28, 2001; 67 FR 38868, June 6, 2002; 68 FR 35786, June 17, 2003; 68 FR 50474, Aug. 21, 2003]

### §770.3 Interpretations related to exports of technology and software to destinations in Country Group D:1.

(a) *Introduction.* This section is intended to provide you additional guidance on how to determine whether your technology or software would be eligible for a License Exception, may be exported under NLR, or require a license, for export to Country Group D:1.

(b) *Scope of licenses.* The export of technology and software under a license is authorized only to the extent specifically indicated on the face of the license. The only technology and software related to equipment exports that may be exported without a license is technology described in §§734.7 through 734.11 of the EAR; operating technology and software described in §740.13(a) of the EAR; sales technology described in §740.13(b) of the EAR; and software updates described in §740.13(c) of the EAR.

(c) *Commingled technology and software.* (1) U.S.-origin technology does not lose its U.S.-origin when it is