

§ 746.9

contract entered into or any license or permit granted prior to that date, except to the extent provided in regulations, orders, directives or licenses that may be issued in the future under Executive Order 12918 or under the EAR.

(d) *Related controls.* The Department of State, Directorate of Defense Trade Controls, maintains controls on arms and military equipment under the International Traffic in Arms Regulations (22 CFR parts 120 through 130).

[61 FR 12806, Mar. 25, 1996, as amended at 63 FR 42229, Aug. 7, 1998; 65 FR 55179, Sept. 13, 2000]

§ 746.9 [Reserved]

SUPPLEMENT NOS.1-3 TO PART 746
[RESERVED]

PART 747—SPECIAL IRAQ RECONSTRUCTION LICENSE

Sec.

747.1 Scope.

747.2 Eligibility requirements.

747.3 Eligible items.

747.4 Steps you must follow to apply for a SIRL.

747.5 SIRL application review process.

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 1503, Pub. L. 108-11, 117 Stat. 559; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2003, 68 FR 47833, 3 CFR, 2003 Comp., p. 328.

SOURCE: 69 FR 46078, July 30, 2004, unless otherwise noted.

§ 747.1 Scope.

A Special Iraq Reconstruction License (SIRL) authorizes exports and re-exports to Iraq and transfers within Iraq of items in furtherance of civil reconstruction and other related projects.

§ 747.2 Eligibility requirements.

(a) A SIRL authorizes exports and re-exports to Iraq and transfers within Iraq of items in furtherance of civil reconstruction and other projects funded by:

- (1) The United States Government;
- (2) The United Nations, the World Bank, and the International Monetary

15 CFR Ch. VII (1-1-05 Edition)

Fund, their affiliated entities (*i.e.*, International Bank for Reconstruction and Development, International Finance Corporation, and United Nations Development Programme); and

(3) Any other entities that the U.S. Government may designate.

(b) To be eligible for a SIRL, exports, reexports or transfers must be made pursuant to and within the scope of contractual or similar arrangements in furtherance of civil reconstruction or other projects in Iraq funded by any of the entities described above.

§ 747.3 Eligible items.

All items subject to the EAR, other than items controlled for missile technology (MT), nuclear nonproliferation (NP) or chemical and biological weapons (CB) reasons, are eligible for export, reexport or transfer under a SIRL.

§ 747.4 Steps you must follow to apply for a SIRL.

(a) *Step One: Prepare your documentation.*

(1) Form BIS-748P, Multipurpose Application, and Form BIS-748P-A, Item Appendix. You must complete the Multipurpose Application Form (BIS-748P) to apply for a SIRL. Applications must specifically describe, on Form BIS-748P-A, Item Appendix, all items subject to the EAR to be exported or reexported to Iraq, or transferred within Iraq, for which BIS approval is sought. Export control classification numbers (ECCNs) must be identified for all such items. Applicants should provide BIS commodity classifications, where available, as this will assist BIS to rule upon the application quickly.

(2) Form BIS-748P-B, End-User Appendix. All end-users must be identified on Form BIS-748P-B, End-User Appendix.

(b) *Step Two: Narrative statement to support application*—In support of an application for a SIRL, exporters must submit with the application a narrative statement that includes the following information:

- (1) Identity of all parties to the proposed transaction;
- (2) Detailed description of the project, funding entity, the contract or work order which formed the basis of

the transaction, and any identification number or project code for that contract or work order;

(3) Explanation of how the project will contribute to the reconstruction of Iraq and any potential security issues associated with the items to be exported, reexported or transferred;

(4) Written statement from one or more funding agencies referred to in § 747.2 addressing whether the transaction is likely to pose security issues;

(5) Certification that items will not be used in any of the prohibited proliferation activities described in part 744 of the EAR;

(6) For items that will remain in the control of the exporter, a commitment to return all items to the United States when the authorized project or activity is complete, excluding those items that are consumed in Iraq, absent specific permission from BIS; and

(7) Certification that parties to the transaction will obtain a license from BIS prior to transferring within Iraq or reexporting items to end-users not authorized under the SIRL, unless they would not require a BIS license to the new country of destination. (Please see the guidance in § 747.5(d) regarding the transfer of items to persons within Iraq not included on the End-User Appendix.)

§ 747.5 SIRL application review process.

(a) *Application processing time frames.* Upon receiving a complete application with all requisite supporting documentation, BIS may review the application for up to ten days before referring the application to the other appropriate agencies. Agencies have 30 days from the date of referral to process the application. The U.S. Government will review the application as expeditiously as possible.

(b) *Review policy.* (1) BIS will review SIRL applications on a case-by-case basis. To approve a SIRL, BIS must be satisfied that the parties to the license will adhere to the conditions of the license and the EAR, and that approval of the application will not be detrimental to U.S. national security, non-proliferation, or foreign policy interests. In reviewing and approving a specific SIRL application, BIS may retain

the right to limit the items that are eligible or to prohibit the export, reexport, or transfer of items under the reconstruction license to specific firms or individuals.

(2) BIS will thoroughly analyze all parties, items and activities associated with the applicant's proposed transaction(s). If BIS cannot verify that all parties, items and activities are appropriate, or establish the reliability of the proposed parties to the application, it may deny the application, or modify it by eliminating certain consignees, items, activities or other elements.

(3) The licensing decision will focus on the following factors:

(i) The proposed end-use(s);

(ii) If the proposed transaction will contribute to the reconstruction of Iraq;

(iii) If the proposed transaction could contribute to the design, development, production, stockpiling, or use of nuclear or chemical or biological weapons, or missiles of greater than 150 kilometer range and the types of assurances available against these activities;

(iv) The potential impact of the proposed transaction on the security situation in Iraq; and

(v) The reliability of all parties to the proposed transaction.

(4) If the U.S. Government determines that the proposed transaction does not satisfy all the criteria of part 747, BIS will inform the applicant that the agency will review the application under standard license procedures for individual items rather than as a SIRL. The applicant may elect to have the application Returned Without Action. Applicants are not required to use the SIRL procedure and may seek authorization under standard license procedures.

(c) *Validity period.* SIRLs will be valid until the completion or discontinuation of the associated project detailed in the application or until otherwise determined by BIS. Applicants are required to submit a report to BIS verifying completion of the project or indicating that the project has been discontinued. These reports should be submitted to the following address: U.S. Department of Commerce, Office of Exporter Services, ATTN: Reports,

14th Pennsylvania Ave., NW., Washington, DC, 20230. The report should include the following information:

- (1) The SIRL reference number;
- (2) The date the project is completed or discontinued;

(3) Verification that items exported under the authority of the SIRL were, as applicable, consumed during use, returned to the United States, reexported to a third country, or transferred to a party within Iraq for whom the applicant has received a license from BIS; and

(4) The reference numbers of the licenses received for the reexport or transfer within Iraq, if required.

(d) *Post-shipment information.* For any items exported or reexported pursuant to a SIRL that are not consumed in Iraq, the applicant must either:

- (1) Return the items to the United States,
- (2) Reexport the items to a third country, and obtain prior BIS approval where required; or
- (3) Seek a license from BIS prior to transferring the items within Iraq to an end-user not identified on the End-User Appendix.

(e) *Changes to a SIRL.* Changes to a SIRL require BIS prior approval if they involve:

- (1) Change to consignee name or address;
- (2) Addition of new consignee;
- (3) Addition of new item;
- (4) Changes to end user information or additional end users added; and/or
- (5) Change to license holder ownership or control. Applicants must submit a written request for a change to the Office of Exporter Services. BIS will respond to these requests in written form. Changes involving the following must be reported to BIS within 30 days of their occurrence but do not require prior BIS approval:

- (i) License holder address, contact information, or license value; or
- (ii) Removing consignee(s), items or end users from the SIRL.

(f) *Administrative actions.* If BIS believes any party to a SIRL is not complying with all conditions of the SIRL, BIS may take measures including revoking or suspending parts of the SIRL, or may restrict what items may be shipped under the SIRL. Whenever

necessary to protect the national interest of the United States, BIS may take any licensing action it deems appropriate, without regard to contracts or agreements entered into before such administrative action.

PART 748—APPLICATIONS (CLASSIFICATION, ADVISORY, AND LICENSE) AND DOCUMENTATION

Sec.

- 748.1 General provisions.
- 748.2 Obtaining forms; mailing addresses.
- 748.3 Classification request, advisory opinions, and encryption review requests.
- 748.4 Basic guidance related to applying for a license.
- 748.5 Parties to the transaction.
- 748.6 General instructions for license applications.
- 748.7 Applying electronically for a license or Classification request.
- 748.8 Unique application and submission requirements.
- 748.9 Support documents for license applications.
- 748.10 Import and End-User Certificates.
- 748.11 Statement by Ultimate Consignee and Purchaser.
- 748.12 Special provisions for support documents.
- 748.13 Delivery Verification (DV).
- 748.14 Import certificate for firearms destined for Organization of American States member countries.

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

SUPPLEMENT NO. 2 TO PART 748—UNIQUE APPLICATION AND SUBMISSION REQUIREMENTS

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

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

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

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

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 6, 2004, 69 FR 48763 (August 10, 2004).

SOURCE: 61 FR 12812, Mar. 25, 1996, unless otherwise noted.