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

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

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

§ 746.3 Iraq.

Pursuant to United Nations Security Council (UNSC) Resolutions 1483 and 1546 and other relevant resolutions, the United Nations maintains an embargo on the sale or supply to Iraq of arms and related material and their means of production, except items required by the Interim Government of Iraq or the Multinational Force in Iraq to serve the purposes of Resolution 1546. UNSC Resolutions 707 and 687 require that Iraq eliminate its nuclear weapons program and restrict its nuclear activities to the use of isotopes for medical, industrial or agricultural purposes. Such resolutions further mandate that Iraq eliminate its chemical and biological weapons programs as well as its ballistic missile program. In support of the applicable UNSC resolutions, certain Iraq specific license requirements and licensing policies are detailed in this section. In addition, this section details restrictions on transfers of items subject to the EAR within Iraq. Exporters should be aware that other provisions of the EAR, including parts 742 and 744, will continue to apply with respect to exports and reexports to Iraq and transfers within Iraq.

(a) License requirements. (1) A license is required for the export or reexport to Iraq or transfer within Iraq of any item controlled on the Commerce Control List for NS, MT, NP, CW, CB, RS, CC, EI, SI, or SL reasons. See part 742 of the EAR.

(2) A license is required for the export or reexport to Iraq or transfer within Iraq of any item controlled on the Commerce Control List for UN reasons.

(3) A license is required for the export or reexport to Iraq or transfer within Iraq of items on the Commerce Control List controlled for RS reasons under the following ECCNs: 0B999, 0D999, 1B999, 1C992, 1C995, 1C997, 1C999 and 6A992.

(4) A license is required for the export or reexport to Iraq or transfer within Iraq of any item subject to the EAR if, at the time of the export, reexport or transfer, you know, have reason to know, or are informed by BIS that the item will be, or is intended to be, used for a “military end-use” or by a “military end-user”, as defined in this section. This license requirement does not apply to exports, reexports or transfers of items for the official use by personnel and agencies of the U.S. Government or exports, reexports or transfers to the Interim Government of Iraq or the Multinational Force in Iraq for the definition of “agency of the U.S. Government.” BIS may inform an exporter, reexporter, or other person, either individually by specific notice or through amendment to the EAR, that a license is required for export, reexport or transfer of items subject to the EAR to specified end-users, because BIS has determined that there is an unacceptable risk of diversion to the uses or users described in this paragraph. Specific notice is to be given only by, or at the direction of, the Deputy Assistant Secretary for Export Administration.

When such notice is provided orally, it will be followed by a written notice within two working days signed by the Deputy Assistant Secretary for Export Administration. The absence of any such notification does not excuse the exporter, reexporter or other person from compliance with the license requirements of this paragraph.

(i) Military end-use. In this section, the phrase "military end-use" means incorporation into a military item described on the U.S. Munitions List (USML) (22 CFR part 121, International Traffic in Arms Regulations) or the Wassenaar Arrangement Munitions List (WAML), as set out on the Wassenaar Arrangement website at http://www.wassenaar.org; or use, development, or deployment of military items described on the USML or the WAML.

(ii) Military end-user. In this section, the term "military end-user" means any "person" whose actions or functions are intended to support "military end-uses" as defined in paragraph (a)(4)(i) of this section and who is not recognized as a legitimate military organization by the U.S. Government.

(5) Definitions. For purposes of exports or reexports to Iraq or transfers within Iraq, "ballistic missile" is defined as any missile capable of a range greater than 150 kilometers.

(b) Licensing policy. (1) License applications for the export or reexport to Iraq or transfer within Iraq of items listed in paragraph (a)(1), (a)(2), or (a)(3) of this section for Iraqi civil nuclear or military nuclear activity, except for use of isotopes for medical, industrial or agricultural purposes, will be subject to a policy of denial.

(2) License applications for the export or reexport to Iraq or transfer within Iraq of machine tools controlled for national security (NS) or nuclear non-proliferation (NP) reasons, as well as for any items controlled for crime control (CC) or United Nations (UN) reasons (including items controlled under ECCN 0A996) or ECCNs that end in the number "018", that would make a material contribution to the production, research, design, development, support, maintenance or manufacture of Iraqi weapons of mass destruction, ballistic missiles or arms and related materiel will be subject to a general policy of denial.

(3) License applications for the export or reexport to Iraq of items listed in paragraph (a)(3) of this section will be reviewed on a case-by-case basis to determine if they would contribute to the building of Iraqi civil infrastructure. Applications determined not to contribute to the building of Iraqi civil infrastructure will be subject to a general policy of denial.

(4) License applications for the export or reexport to Iraq or transfer within Iraq of items listed in paragraph (a)(4) of this section will be subject to a policy of denial.

(c) License exceptions. You may export or reexport without a license if your transaction meets all the requirements of any of the following License Exceptions: CIV, APP, TMP, RPL, GOV, GFT, TSU, BAG, AVS, or ENC. For specific requirements of each of these License Exceptions, refer to part 740 of the EAR.

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

(e) Transition for licenses issued by the Department of the Treasury's Office of Foreign Assets Control. Prior to July 30, 2004, the Department of the Treasury's Office of Foreign Assets Control (OFAC) exercised primary licensing jurisdiction for transactions with Iraq, as provided in 31 CFR part 575. This section establishes a validity period for licenses issued by OFAC for exports or reexports to Iraq.

(1) Validity period. Licenses issued by OFAC for the export or reexport of items that require a license to Iraq under the Export Administration Regulations (EAR) shall continue to be valid under the EAR. For those licenses with specified expiration dates, such dates will continue to apply. Licenses without specified expiration dates will be valid through July 30, 2005. The recordkeeping requirements applicable to exports and reexports of items pursuant to licenses issued by
§ 746.4 North Korea.

(a) Licensing Requirements. As authorized by section 6 of the Export Administration Act of 1979, as amended, and consistent with United Nations Security Council Resolution 1718, a license is required to export or reexport any item subject to the EAR (see part 734 of the EAR) to the Democratic People's Republic of Korea (North Korea), except food and medicines classified as EAR99 (definitions in part 772 of the EAR). Portions of certain license exceptions, set forth in paragraph (c) of this section, may be available. Exporters should be aware that other provisions of the EAR, including parts 742 and 744, also apply to exports and reexports to North Korea.

(b) Licensing Policy. Items requiring a license are subject to case-by-case review, except as follows: