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on commercial documents in accordance with Destination Control Statement requirements of § 758.6 of the EAR.

(f) *Recordkeeping*. Records of transactions involving exports under any of the License Exceptions must be maintained in accordance with the recordkeeping requirements of part 762 of the EAR.

[61 FR 12768, Mar. 25, 1996, as amended at 61 FR 64274, Dec. 4, 1996; 62 FR 25457, May 9, 1997; 65 FR 42568, July 10, 2000; 66 FR 36680, July 12, 2001; 66 FR 42109, Aug. 10, 2001; 68 FR 50472, Aug. 21, 2003]

§ 740.2 Restrictions on all License Exceptions.

(a) You may not use *any* License Exception if *any* one or more of the following apply:

(1) Your authorization to use a License Exception has been suspended or revoked, or your intended export does not qualify for a License Exception.

(2) The export or reexport is subject to one of the ten General Prohibitions, is not eligible for a License Exception, and has not been authorized by BIS.

(3) The item is primarily useful for surreptitious interception of wire, oral, or electronic communications, or related software, controlled under ECCNs 5A980 or 5D980, unless the item is consigned to and for the official use of an agency of the U.S. Government (see § 740.11(b)(2)(ii) of this part, Governments (GOV)).

(4) The item being exported or reexported is subject to the license requirements described in § 742.7 of the EAR and the export or reexport is not:

(i) Being made to Australia, Japan, New Zealand, or a NATO (North Atlantic Treaty Organization) member state (see NATO membership listing in § 772.1 of the EAR);

(ii) Authorized by § 740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. government); or

(iii) Authorized by § 740.14(e) of the EAR (certain shotguns and shotgun shells for personal use).

(5)(i) The item is controlled for missile technology (MT) reasons, except that the items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, or 7E101, may be exported as part of a manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(2)(ii) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(c) (License Exception AVS for equipment and spare parts for permanent use on a vessel or aircraft).

(ii) MT controlled commodities described in ECCN 2A001 may be exported or reexported under § 740.9(a)(2)(ii) (License Exception TMP) or § 740.10 (License Exception RPL) as one-for-one replacement for equipment previously legally exported or reexported.

(6) The export or reexport is to a comprehensively embargoed destination (Cuba, Iran, and North Korea), unless a license exception or portion thereof is specifically listed in the license exceptions paragraph pertaining to a particular embargoed country in part 746 of the EAR.

(7) "*Space qualified*" *items*. Commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b; "software" for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3D001 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6D001, 6D002, 6D991; and "technology" for commodities defined in ECCNs 3A001.b.8 (Traveling Wave Tube Amplifiers (TWTAs) exceeding 18 GHz), 6A002.e, 6A008.j.1, or 6A998.b and controlled under ECCNs 3E001, 6E001, 6E002, 6E101, 6E991.

(8) The item is controlled under ECCNs 2A983, 2A984, 2D983, 2D984, 2E983 or 2E984 and the License Exception is other than:

(i) RPL, under the provisions of § 740.10, including § 740.10(a)(3)(v), which prohibits exports and reexports of replacement parts to countries in Country Group E:1 (see supplement 1 to part 740));

(ii) GOV, restricted to eligibility under the provisions of § 740.11(b)(2)(ii); or

(iii) TSU, under the provisions of § 740.13(a) and (c).

(9) The item is a QRS11–00100–100/101 Micromachined Angular Rate Sensor controlled for RS reasons under ECCN 7A994.

(10) The commodity being exported or reexported is subject to the license requirements of § 742.11 of the EAR.

(11) The item is a "military commodity" subject to ECCN 0A919, except that such military commodities may be reexported in accordance with § 740.11(b)(2)(ii) (official use by personnel and agencies of the U.S. Government).

(b) All License Exceptions are subject to revision, suspension, or revocation, in whole or in part, without notice. It may be necessary for BIS to stop a shipment or an export transaction at any stage of its progress, e.g., in order to prevent an unauthorized export or reexport. If a shipment is already en route, it may be further necessary to order the return or unloading of the shipment at any port of call.

(c) BIS may by informing the exporter, suspend or revoke any License Exception in order to comply with U.S. Wassenaar obligations. In addition, BIS may inform an exporter, that before using any License Exception, a notice be submitted with BIS concerning the proposed export.

(d) See § 746.3 for restrictions on certain transfers within Iraq of items exported or reexported to Iraq pursuant to a License Exception.

[61 FR 12768, Mar. 25, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 740.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 740.3 Shipments of limited value (LVS).

(a) *Scope.* License Exception LVS authorizes the export and reexport in a single shipment of eligible commodities as identified by "LVS - $(value limit)" on the CCL.

(b) *Eligible Destinations.* This License Exception is available for all destinations in Country Group B (see supplement No. 1 to part 740), provided that the net value of the commodities included in the same order and controlled under the same ECCN entry on the CCL does not exceed the amount specified in the LVS paragraph for that entry.

(c) *Definitions*—(1) *Order.* The term *order* as used in this § 740.3 means a communication from a person in a foreign country, or that person's representative, expressing an intent to import commodities from the exporter. Although all of the details of the order need not be finally determined at the time of export, terms relating to the kinds and quantities of the commodities to be exported, as well as the selling prices of these commodities, must be finalized before the goods can be exported under License Exception LVS.

(2) *Net value: for LVS shipments.* The actual selling price of the commodities that are included in the same order and are controlled under the same entry on the CCL, less shipping charges, or the current market price of the commodities to the same type of purchaser in the United States, whichever is the larger. In determining the actual selling price or the current market price of the commodity, the value of containers in which the commodity is being exported may be excluded. The value for LVS purposes is that of the controlled commodity that is being exported, and may not be reduced by subtracting the value of any content that would not, if shipped separately, be subject to licensing. Where the total value of the containers and their contents must be shown on Shipper's Export Declarations under one Schedule B Number, the exporter, in effecting a shipment under this License Exception, must indicate the "net value" of the contained commodity immediately below the description of the commodity.

(3) *Single shipment.* All commodities moving at the same time from one exporter to one consignee or intermediate consignee on the same exporting carrier even though these commodities will be forwarded to one or more ultimate consignees. Commodities being transported in this manner will be treated as a single shipment even if the commodities represent more than one order or are in separate containers.

(d) *Additional eligibility requirements and restrictions*—(1) *Eligible orders.* To be eligible for this License Exception, orders must meet the following criteria: