

of Syria, including its military logistics capability, or could enhance Syria's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license.

(c) *Contract sanctity.* Contract sanctity dates and related licensing policies for Syria are set forth in Supplement No. 2 to part 742. Applicants who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

(e) Section 746.9 (Syria) of the EAR sets forth the export and reexport controls for Syria. Section 746.9 supersedes the provisions of paragraphs (a) through (d) of this section.

[61 FR 12786, Mar. 25, 1996, as amended at 62 FR 25459, May 9, 1997; 63 FR 42228, Aug. 7, 1998; 64 FR 27142, May 18, 1999; 64 FR 47667, Sept. 1, 1999; 64 FR 50248, Sept. 16, 1999; 66 FR 36682, July 12, 2001; 68 FR 16212, Apr. 3, 2003; 71 FR 9442, Feb. 24, 2006; 75 FR 14340, Mar. 25, 2010; 76 FR 77117, Dec. 12, 2011]

§ 742.10 Anti-terrorism: Sudan.

(a) *License requirements.* (1) If AT column 1 or AT column 2¹ of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for export to Sudan for anti-terrorism purposes.

(2) If AT column 1 or AT column 2 of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for *reexport* to Sudan for anti-terrorism purposes, *except* for ECCNs 2A994; 3A992.a; 5A991.g; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. In addition, items in these ECCNs are not

¹ AT column 1 refers to items controlled to Iran, Sudan, and Syria for anti-terrorism purposes. AT column 2 refers to additional items controlled to Iran and Sudan for anti-terrorism purposes. In addition, items included in ECCNs 2A994, 2D994 and 2E994 are controlled to Iran for anti-terrorism purposes.

counted as controlled U.S. content for the purpose of determining license requirements for U.S. parts, components or materials incorporated into foreign made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license.

(3) The Secretary of State has designated Sudan as a country whose government has repeatedly provided support for acts of international terrorism.

(4) In support of U.S. foreign policy against terrorism, BIS maintains anti-terrorism controls on the export and reexport to Sudan of items described in Supplement No. 2 to part 742.

(i) Items described in paragraph (c)(1) through (c)(5) of Supplement No. 2 to part 742 if destined to military, police, intelligence or other sensitive end-users in Sudan are controlled under section 6(j) of the Export Administration Act, as amended (EAA).

(ii) Items listed in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 destined to other end-users in Sudan, as well as items to all end-users listed in (c)(6) through (c)(14) and (c)(16) through (c)(44) of Supplement No. 2 to part 742 are controlled to Sudan under section 6(a) of the EAA.

(b) *Licensing policy.* (1) Applications for export and reexport to all end-users in Sudan of the following items will generally be denied:

(i) Items that are controlled for chemical and biological weapons proliferation reasons to any destination. These are items that contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) Military-related items controlled for national security reasons to any destination. These are items that contain NS Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL and is controlled by equipment or material entries ending in the number "18."

(iii) Items that are controlled for missile proliferation reasons to any destination. These are items that contain a MT Column 1 in the Country

Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. These are items controlled to any destination for national security reasons and items controlled to Sudan for anti-terrorism reasons. Such items contain an NS Column 1, NS Column 2, or AT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL. Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated in foreign made products, all aircraft-related items that require a license to Sudan will be included as controlled US content for purposes of such license requirements.

(v) Cryptographic, cryptanalytic, and cryptologic items controlled to any destination. These are items that contain an NS Column 1, NS Column 2, AT Column 1 or AT Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(vi) Explosives detection equipment controlled under ECCN 2A983.

(vii) "Software" (ECCN 2D983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(viii) "Technology" (ECCN 2E983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(ix) Commercial charges and devices controlled under ECCN 1C992.

(x) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355.

(xi) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(xii) Concealed object detection equipment controlled under ECCN 2A984.

(xiii) "Software" (ECCN 2D984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984.

(xiv) "Technology" (ECCN 2E984) "required" for the "development", "production" or "use" of concealed object detection equipment controlled by 2A984, or the "development" of "software" controlled by 2D984.

(2) Applications for the export and re-export of all other items described in paragraph (a) of this section, and not described in paragraph (b)(1) of this section, will be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis.

(3) Notwithstanding the provisions of paragraphs (b)(1) and (b)(2) of this section, applications for Sudan will be considered on a case-by-case basis if:

(i) The transaction involves the re-export to Sudan of items where Sudan was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date.

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical items.

NOTE TO PARAGRAPH (b) OF THIS SECTION: Applicants who wish any of the factors described in paragraph (b)(4) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the specifications and medical use of the equipment, or the date of export from the United States.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Sudan, including its military logistics capability, or could enhance Sudan's ability to support acts of international terrorism, the appropriate committees of the Congress will be notified 30 days before issuance of a license to export or reexport such items.

(c) *Contract sanctity*. Contract sanctity dates and related licensing information for Sudan are set forth in Supplement No. 2 to part 742. Applicants

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who wish a pre-existing contract to be considered must submit sufficient documentation to establish the existence of a contract.

(d) *U.S. controls.* Although the United States seeks cooperation from like-minded countries in maintaining anti-terrorism controls, at this time these controls are maintained only by the United States.

[61 FR 12786, Mar. 25, 1996, as amended at 63 FR 42228, Aug. 7, 1998; 64 FR 27142, May 18, 1999; 64 FR 47667, Sept. 1, 1999; 65 FR 14859, Mar. 20, 2000; 65 FR 34075, May 26, 2000; 66 FR 36682, July 12, 2001; 68 FR 16212, Apr. 3, 2003; 75 FR 14340, Mar. 25, 2010]

§ 742.11 Specially designed implements of torture, including thumbscrews, thumbcuffs, fingercuffs, spiked batons, and parts and accessories, n.e.s.

(a) *License Requirements.* In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export any commodity controlled by ECCN 0A983 to all destinations including Canada.

(b) *Licensing policy.* Applications for such licenses will generally be denied to all destinations.

(c) *Contract sanctity.* The contract sanctity date is November 9, 1995. Contract sanctity will be a factor in considering only applications for export to the NATO countries, Japan, Australia, and New Zealand.

(d) *U.S. controls.* In maintaining its controls on specially designed instruments of torture the United States considers international norms regarding human rights and the practices of other countries that control exports to promote the observance of human rights. However, these controls are not based on the decisions of any multinational export control regime and may differ from controls imposed by other countries.

[61 FR 12786, Mar. 25, 1996, as amended at 72 FR 9849, Mar. 6, 2007; 75 FR 41082, July 15, 2010]

§ 742.12 [Reserved]

§ 742.13 Communications intercepting devices.

(a) *License requirement.* (1) In support of U.S. foreign policy to prohibit the

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export of items that may be used for the surreptitious interception of wire, oral, or electronic communications, a license is required for all destinations, including Canada, for ECCNs having an “SL” under the “Reason for Control” paragraph. These items include any electronic, mechanical, or other device primarily useful for the surreptitious interception of wire, oral, or electronic communications (ECCN 5A980); and for related software primarily useful for the surreptitious interception of wire, oral, or electronic communications, and software primarily useful for the “development”, “production”, or “use” of devices controlled under ECCN 5A980 (ECCN 5D980); and technology primarily useful for the “development”, “production”, or “use” of devices controlled under ECCN 5A980 (ECCN 5E980). These licensing requirements do not supersede the requirements contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. Section 2512). This license requirement is not reflected on the Commerce Country Chart (Supplement No. 1 to Part 738 of the EAR).

(2) “Communications intercepting devices” are electronic, mechanical, or other devices that can be used for interception of wire, oral, or electronic communications if their design renders them primarily useful for surreptitious listening even though they may also have innocent uses. A device is not restricted merely because it is small or may be adapted to wiretapping or eavesdropping. Some examples of devices to which these restrictions apply are: the martini olive transmitter; the infinity transmitter; the spike mike; and the disguised microphone appearing as a wristwatch, cufflink, or cigarette pack; etc. The restrictions do not apply to devices such as the parabolic microphone or other directional microphones ordinarily used by broadcasters at sports events, since these devices are not primarily useful for surreptitious listening.

(b) *Licensing policy.* (1) License applications, except for those applications for which a license is required for both SL and AT reasons, will generally be approved for exports or reexports requiring a license for SL reasons when the exporter or reexporter is: