

Bureau of Industry and Security, Commerce

§ 742.18

encryption functionality following a previous classification.

[73 FR 57507, Oct. 3, 2008, as amended at 75 FR 36494, June 25, 2010; 75 FR 43821, July 27, 2010; 76 FR 1063, Jan. 7, 2011; 76 FR 29619, May 20, 2011]

§ 742.16 [Reserved]

§ 742.17 Exports of firearms to OAS member countries.

(a) *License requirements.* BIS maintains a licensing system for the export of shotguns and related items to all OAS member countries. This action is based on the Organization of American States (OAS) Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Munitions (OAS Model Regulations) which were developed to assist OAS member countries to implement the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (Firearms Convention).¹ Items subject to these controls are identified by “FC Column 1” in the “License Requirements” section of their Export Control Classification Number (ECCN) on the Commerce Control List (CCL). If “FC Column 1” of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated for a particular country, a license is required for export to that destination. Licenses will generally be issued on an Import Certificate or equivalent official document, satisfactory to BIS, issued by the government of the importing country is also required for the export of such items to OAS member countries.

(b) *Licensing policy.* Applications supported by an Import Certificate or equivalent official document issued by the government of the importing country for such items will generally be approved, except there is a policy of denial for applications to export items linked to such activities as drug trafficking, terrorism, and transnational organized crime.

¹Status of Convention as of April 13, 1999 had not entered into force.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications under this § 742.17.

(d) *OAS Model Regulations.* The OAS Model Regulations on which regulations are based are designed by OAS member countries to combat illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials in North and South America because of their links to such activities as drug trafficking, terrorism, and transnational organized crime.

(e) *OAS member countries to which firearms controls under this section apply.* The OAS member countries include: Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay, and Venezuela.

(f) *Items/Commodities.* Items requiring a license under this section are ECCNs 0A984 (shotguns with a barrel length 18 inches or over and related parts, and buckshot shotgun shells), 0A986 (shotgun shells, and related parts) and 0A987 (optical sighting devices). (See Supplement No. 1 to Part 774 of the EAR.)

(g) *Validity period for licenses.* Although licenses generally will be valid for a period of two years, your ability to ship items that require an Import Certificate or equivalent official document under this section may be affected by the validity of the Import Certificate or equivalent official document (see § 748.14(f) of the EAR).

[64 FR 17973, Apr. 13, 1999]

§ 742.18 Chemical Weapons Convention (CWC or Convention).

States that are parties to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), undertake never to develop, produce, acquire, stockpile, transfer, or use chemical weapons. As a

State Party to the Convention, the United States is subjecting certain toxic chemicals and their precursors listed in Schedules within the Convention to trade restrictions. Trade restrictions include: a prohibition on the export of Schedule 1 chemicals to States not Party to the CWC; a prohibition on the reexport of Schedule 1 chemicals to all destinations (both States Parties to the CWC and States not Party to the CWC); license requirements for the export of Schedule 1 chemicals to all States Parties; a prohibition on the export of Schedule 2 chemicals to States not Party to the CWC; and an End-Use Certificate requirement for exports of Schedule 3 chemicals to States not Party to the CWC. Exports of CWC chemicals that do not require a license for CW reasons (*e.g.*, exports and reexports of Schedule 2 and Schedule 3 chemicals to States Parties to the CWC) may require a license for other reasons set forth in the EAR. (*See*, in particular, the license requirements in §742.2 of the EAR that apply to exports and reexports of precursor chemicals controlled by ECCN 1C350, for CB reasons. Also note the end-use and end-user restrictions in part 744 of the EAR and the restrictions that apply to embargoed countries in part 746 of the EAR.)

(a) *License requirements* (1) Schedule 1 chemicals and mixtures controlled under ECCN 1C351. A license is required for CW reasons to export or reexport Schedule 1 chemicals controlled under ECCN 1C351.d.11 or d.12 to all destinations including Canada. CW applies to 1C351.d.11 for ricin in the form of Ricinus Communis Agglutinin_{II} (RCA_{II}), which is also known as ricin D or Ricinus Communis Lectin_{III} (RCL_{III}), and Ricinus Communis Lectin_{IV} (RCL_{IV}), which is also known as ricin E. CW applies to 1C351.d.12 for saxitoxin identified by C.A.S. #35523–89–8. (Note that the advance notification procedures and annual reporting requirements described in §745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

(2) *Schedule 2 and 3 chemicals and mixtures controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C395.* (i) *States Parties to the CWC.* Neither a license nor an End-Use Certificate is required for CW rea-

sons to export or reexport Schedule 2 or 3 chemicals and mixtures controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C395 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR).

(ii) *States not Party to the CWC.* (A) *Schedule 2 chemicals.* A license is required for CW reasons to export or reexport Schedule 2 chemicals and mixtures controlled under ECCN 1C350.b, ECCN 1C355.a, or ECCN 1C395 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

(B) *Schedule 3 chemicals.* (1) *Exports.* A license is required for CW reasons to export Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR), *unless* the exporter obtains from the consignee an End-Use Certificate (issued by the government of the importing country) prior to exporting the Schedule 3 chemicals and submits it to BIS in accordance with the procedures described in §745.2 of the EAR. Note, however, that obtaining an End-Use Certificate does not relieve the exporter from the responsibility of complying with other license requirements set forth elsewhere in the EAR.

(2) *Reexports.* (i) *Reexports from States Parties to the CWC.* Neither a license nor an End-Use Certificate is required for CW reasons to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) to States not Party to the CWC. However, a license may be required for other reasons set forth elsewhere in the EAR. In addition, reexports of Schedule 3 chemicals may be subject to an End-Use Certificate requirement by governments of other countries when the chemicals are destined for States not Party to the CWC.

(ii) *Reexports from States not Party to the CWC.* A license is required for CW reasons to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from a State not Party to the

CWC (a destination *not* listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC.

(C) *Technology controlled under ECCN 1E355.* A license is required for CW reasons to export or reexport technology controlled under ECCN 1E355 to all States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR), except for Israel and Taiwan.

(b) *Licensing Policy*—(1) *Schedule 1 chemicals and mixtures*—(i) *Exports to States Parties to the CWC.* Applications to export Schedule 1 Chemicals controlled under ECCN 1C351.d.11 or .d.12 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, unless all of the following conditions are met:

(A) The chemicals are destined only for purposes not prohibited under the CWC (*i.e.*, research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The Schedule 1 chemicals were not previously imported into the United States (this does not apply to Schedule 1 chemicals imported into the United States prior to April 29, 1997, or imported into the United States directly from the same State Party to which they now are to be returned, *i.e.*, exported); *and*

(D) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time is equal to or less than one metric ton *and* receipt of the proposed export will *not* cause the country of destination to acquire or to have acquired one metric ton or more of Schedule 1 chemicals in any calendar year.

(ii) *Exports to States not party to the CWC.* Applications to export Schedule 1 chemicals controlled under ECCN 1C351.d.11 or .d.12 to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(iii) *Reexports.* Applications to reexport Schedule 1 chemicals controlled under ECCN 1C351.d.11 or .d.12 generally will be denied to all destinations (including both States Parties to the CWC and States not Party to the CWC).

(2) *Schedule 2 chemicals and mixtures.* Applications to export or reexport Schedule 2 chemicals and mixtures controlled under ECCN 1C350.b, ECCN 1C355.a, or ECCN 1C395 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(3) *Schedule 3 chemicals and mixtures.* (i) *Exports.* Applications to export Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied.

(ii) *Reexports from States not Party to the CWC.* Applications to reexport Schedule 3 chemicals and mixtures controlled under ECCN 1C350.c, ECCN 1C355.b, or ECCN 1C395.b from a State not Party to the CWC (a destination *not* listed in Supplement No. 2 to part 745 of the EAR) to any other State not Party to the CWC generally will be denied.

(4) *Technology controlled under ECCN 1E355.* Exports and reexports of technology controlled under ECCN 1E355 will be reviewed on a case-by-case basis.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

[67 FR 37982, May 31, 2002, as amended at 69 FR 42865, July 19, 2004; 76 FR 56101, <Sept. 12, 2011]

§ 742.19 Anti-terrorism: North Korea.

(a) *License Requirements.* (1) All items on the Commerce Control List (CCL) (*i.e.*, with a designation other than EAR99) that are controlled for anti-terrorism reasons require a license for export or reexport to North Korea. This includes all items on the CCL containing AT column 1 or AT column 2 in