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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 736, 740, 742, 746, 748, 750, 758, 772, and 774

[Docket No. 150416374-5374-01]

RIN 0694-AG60

Cuba: Implementing Rescission of State Sponsor of Terrorism Designation

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to implement the rescission of Cuba's designation as a State Sponsor of Terrorism. Specifically, this rule removes anti-terrorism (AT) license requirements from Cuba and eliminates references to Cuba as a State Sponsor of Terrorism, but maintains preexisting license requirements for all items subject to the EAR unless authorized by a license exception. This rule also removes Cuba from Country Group E:1 (terrorist supporting countries), which makes Cuba eligible for a general 25

percent *de minimis* level and portions of four license exceptions. The Secretary of State rescinded the designation of Cuba as a State Sponsor of Terrorism on May 29, 2015.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Phone: (202) 482-4252.

SUPPLEMENTARY INFORMATION:

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I. Background

The United States maintains a comprehensive embargo on trade with Cuba. Pursuant to that embargo, all items that are subject to the Export Administration Regulations (EAR) require a license for export or reexport to Cuba unless authorized by a license exception. The Bureau of Industry and Security (BIS) administers export and reexport restrictions on Cuba consistent with the goals of that embargo and with relevant law. Accordingly, BIS may issue specific or general authorizations in the form of licenses or license exceptions for transactions that support the goals of United States policy while the embargo remains in effect.

On December 17, 2014, the President announced that the United States is taking steps to chart a new course in bilateral relations with Cuba and to further engage and empower the Cuban people. As one of these steps, the President directed the Secretary of State to review Cuba's designation as a State Sponsor of Terrorism and provide a report to the President within six months. Cuba was designated as a State Sponsor of Terrorism in 1982. Pursuant to Sections 6(a) and 6(j) of the Export Administration Act of 1979, as amended (EAA), State Sponsors of Terrorism are subject to anti-terrorism (AT) controls and certain other restrictions in the EAR. Once designated, a country remains a State Sponsor of Terrorism until its designation is rescinded in accordance with the relevant statutes (Section 6(j) of the EAA; Section 40 of the Arms Export Control Act of 1976, as amended; and Section 620A of the Foreign Assistance Act of 1961, as amended).

There are two possible paths to rescission of a State Sponsor of Terrorism designation under the relevant statutes. The first requires the President to submit a report to Congress before the proposed rescission would take effect certifying that (1) there has been a fundamental change in the leadership and policies of the government of the country concerned, (2) the government is not supporting acts of international terrorism, and (3) the government has provided assurances

that it will not support acts of international terrorism in the future. The second path requires that the President submit a report to Congress, at least 45 days before the proposed rescission would take effect, justifying the rescission and certifying the subject government has not provided any support for international terrorism for the preceding six-month period and has given assurances that it will not support acts of international terrorism in the future. The rescission of Cuba's designation was done consistent with the second path.

On April 8, 2015, the Secretary of State completed the review requested by the President and submitted his analysis to the President recommending that Cuba should no longer be designated as a State Sponsor of Terrorism. On April 14, 2015, the President submitted to Congress the statutorily required report indicating the Administration's intent to rescind Cuba's State Sponsor of Terrorism designation, including the certification that Cuba has not provided any support for international terrorism during the previous six months; and that Cuba has provided assurances that it will not support acts of international terrorism in the future. The Secretary of State then made the final decision to rescind Cuba's designation as a State Sponsor of Terrorism, which was effective on May 29, 2015. Accordingly, this rule removes references to Cuba as a State Sponsor of Terrorism and removes anti-terrorism (AT) controls from Cuba.

However, Cuba is still subject to a comprehensive embargo and, as specified in § 746.2(a) of the EAR, a license is still required to export or reexport to Cuba any item subject to the EAR unless authorized by a license exception. Only those license exceptions listed in § 746.2(a) may be used to export or reexport to Cuba. These requirements of § 746.2(a) apply to all items subject to the EAR, including EAR99 items and items that are controlled on the Commerce Control List (CCL) only for AT reasons.

II. Removal of anti-terrorism controls and text associating Cuba with terrorism.

This rule removes:

- the reference to “counter-terrorism” from the licensing policy that applies to certain exports intended to provide support for the Cuban people that appears in § 746.2(b)(4)(i) (which will be redesignated as § 746.2(b)(3)(i));
- § 746.2(c), which identifies Cuba as a country whose government has repeatedly provided support for acts of international terrorism;
- the references to “terrorism” and “state sponsors of terrorism” from § 746.2(e), which describes the license requirements regarding Cuba of the U.S. Department of the Treasury, Office of Foreign Assets Control and the U.S. Department of State; and
- the word “Cuba” from the statements of anti-terrorism license requirements in Export Control Classification Numbers 1C350, 1C355, 1C395, 2A994, 2D994 and 2E994.

This rule also removes Cuba from the following provisions, which list countries that have been designated as State Sponsors of Terrorism or that have repeatedly supported acts of international terrorism: § 742.1(d); Supplement No. 2 to part 742, paragraphs (a) and (b)(1); § 750.4(b)(6)(i); and § 772.1, definition of “countries supporting international terrorism.”

Finally, this rule removes Cuba from Country Group E:1 – Terrorist Supporting Countries – in Supplement No. 1 to Part 740 – Country Groups. However, Cuba remains in Country Group E:2 – Unilateral embargo. Cuba also remains in Country Groups D:2, D:3, and D:5. Because country groups are used to specify the countries that are subject to certain

provisions of the EAR, particularly license exceptions, and to impose certain restrictions, removal of Cuba from Country Group E:1 can have effects elsewhere in the EAR as will be discussed below.

III. Jurisdiction – Items that are subject to the EAR.

A. Items with more than de minimis controlled U.S. origin content.

The EAR apply to items that contain more than a *de minimis* amount of controlled U.S.-origin content including foreign-made items located outside the United States. For most items, the *de minimis* level is 10 percent if the destination of the foreign-made item is in Country Group E:1 and 25 percent if the destination is elsewhere. The removal of Cuba from Country Group E:1 raises the *de minimis* level to 25 percent for most items destined for Cuba. Additionally, since Cuba is no longer in Country Group E:1, the 25 percent *de minimis* level now applies to certain foreign-made encryption items destined for Cuba that meet the criteria specified in § 734.4(b)(1)(iii) of the EAR.

With the general increase in the *de minimis* level to 25 percent, paragraph (b)(3) of § 746.2, which described the circumstances under which foreign made items containing an insubstantial proportion of U.S. origin content (*i.e.*, not exceeding 20 percent) would generally be considered favorably, is no longer needed, so this rule removes that paragraph.

Foreign-made items destined for Cuba that incorporate U.S.-origin 9x515 or “600 series” .y content continue to be subject to the EAR regardless of the level of U.S.-origin content, *i.e.*, there is no *de minimis* for these items when destined for Cuba. To maintain this exclusion with respect to Cuba, this rule adds Country Group E:2 to the list of destinations (Country Group E:1

and the People's Republic of China) subject to that exclusion. Since 9x515 and "600 series" items are "specially designed" items transferred from the United States Munitions List to the CCL, this *de minimis* exclusion is still warranted for countries subject to unilateral embargo. Accordingly, BIS is amending § 734.4(a)(6)(ii) to include Country Group E:2.

B. Items that are the direct product of U.S.-origin national security technology and software.

The EAR apply to foreign-made national security items that are the direct product of U.S.-origin national security technology and software. Such items are subject to the EAR (and require a license) if destined to a country in Country Group D:1 or E:1. This rule retains Cuba as one of the destinations that is subject to this requirement by adding Country Group E:2 to § 736.2(b)(3).

IV. Provisions impacted by Cuba's removal from Country Group E:1.

The provisions of the four license exceptions described below contain restrictions that apply to countries in Country Group E:1 or to nationals of those countries. This section describes the restrictions that will no longer apply to Cuba or Cuban nationals as a result of Cuba's removal from Country Group E:1. This rule makes no change to the text of the four license exceptions because the removal of the restrictions results from the removal of Cuba from Country Group E:1 and no changes to the text of the license exceptions are needed.

License Exception Servicing and Replacement of Parts and Equipment (RPL)

The removal of Cuba from Country Group E:1 implicates only paragraph (a) of License Exception Servicing and Replacement of Parts and Equipment (RPL) in § 740.10 because only paragraph (a), which authorizes export and reexport of one-for-one replacement parts for items

previously lawfully exported, is authorized for Cuba in § 746.2 of the EAR. Since Cuba is no longer in Country Group E:1, the following exclusions to License Exception RPL, paragraph (a) no longer apply to Cuba: paragraph (a)(3)(iv), which excludes parts, components, accessories, or attachments to repair “aircraft” or commodities controlled for national security (NS) reasons; paragraph (a)(3)(v), which excludes parts, components, accessories, or attachments to repair explosives detection equipment classified under Export Control Classification Number (ECCN) 2A983 or related software classified under ECCN 2D983; and paragraph (a)(3)(vi) which excludes parts, components, accessories, or attachments to repair concealed object detection equipment classified under ECCN 2A984 or related software classified under ECCN 2D984.

License Exception Governments, International Organizations, International Inspections under the Chemical Weapons Convention, and the International Space Station (GOV)

Since Cuba is no longer in Country Group E:1, the following restrictions in License Exception GOV (§ 740.11) no longer apply to Cuban nationals: paragraph (a)(2)(iv), which restricts physical or computational access by Country Group E:1 nationals to certain computers for authorized international safeguard use in connection with activities of the International Atomic Energy Agency and the European Atomic Energy Community; paragraph (d)(4), which restricts physical or computational access by Country Group E:1 nationals to certain computers for authorized international inspection and verification use in connection with the activities of the Organization for the Prohibition of Chemical Weapons; and paragraph (e)(7)(i), which precludes export, reexport or transfer (in-country) to Country Group E:1 nationals of items used to support the International Space Station. Additionally, paragraph (e)(8)(iii), which precludes return of parts for the International Space Station to destinations in Country Group E:1, no longer applies to Cuba.

License Exception Baggage (BAG)

Since Cuba is no longer in Country Group E:1, § 740.14(f)(1), which authorizes certain exports and reexports of encryption commodities and software subject to Encryption Items (EI) controls on the CCL by United States citizens and permanent resident aliens to destinations other than Country Group E:1, and § 740.14(f)(2), which authorizes such exports and reexports by individuals other than nationals of a country in Country Group E:1, no longer apply to Cuba or Cuban nationals. Additionally, § 740.14(g), which authorizes certain exports and reexports of technology by U.S. persons, but excludes in paragraph (g)(4) exports and reexports of encryption technology controlled in ECCN 5E002 to destinations in Country Group E:1, no longer applies to Cuba.

License Exception Aircraft, Vessels and Spacecraft (AVS)

The removal of Cuba from Country Group E:1 implicates only paragraph (a) of License Exception Aircraft, Vessels and Spacecraft (AVS) in § 740.15 because only paragraph (a), which authorizes aircraft on temporary sojourn, is authorized for Cuba in § 746.2 of the EAR. Since Cuba is no longer in Country Group E:1, Cuba is no longer subject to the following restrictions:

- Paragraph (a)(1)(i), which prohibits use of AVS for foreign registered aircraft that were transferred to a national of a country in Country Group E:1 while in the United States;
- Paragraph (a)(1)(ii), which prohibits use of AVS for foreign registered aircraft that are departing the United States for purpose of transfer to a national of a country in Country Group E:1;

- Paragraph (a)(2)(ii), which prohibits use of AVS for U.S. registered aircraft that are not operating under an Air Carrier Operating Certificate, Commercial Operating Certificate or Air Taxi Operating Certificate from using AVS for temporary sojourns to a country in Country Group E:1;
- Paragraph (a)(3)(iv), which prohibits principal maintenance in Country Group E:1 or right to control the principal place of maintenance by a national of a country in Country Group E:1;
- Paragraph (a)(3)(v), which prohibits location of spares in a destination in Country Group E:1;
- Paragraph (a)(3)(vi), which prohibits changing the place of registration to a destination in Country Group E:1;
- Paragraph (a)(3)(vii), which prohibits transfer of technology to a national of a country in Country Group E:1;
- Paragraph (a)(3)(viii), which prohibits aircraft bearing livery, colors or logos of a national of a country in Country Group E:1; and
- Paragraph (a)(3)(ix), which prohibits flying under a flight number issued to a national of a country in Country Group E:1.

V. Provisions being amended to retain existing Cuba-related requirements.

Although Cuba is removed from Country Group E:1, Cuba is still subject to a comprehensive embargo and, as specified in § 746.2(a) of the EAR, a license is still required to

export or reexport to Cuba any item subject to the EAR unless authorized by a license exception. This rule makes the changes described below to retain the applicability of certain provisions and license conditions to Cuba, consistent with the embargo, that would otherwise cease as a result of Cuba's removal from Country Group E:1. While Cuba was in Country Group E:1, a separate reference to Country Group E:2 would have had no effect on exports or reexports to Cuba. With the removal of Cuba from Country Group E:1, it is necessary to explicitly link these provisions and conditions to the embargo.

Written assurance for License Exception Technology and Software under Restriction (TSR)

Before an exporter or reexporter is able to use License Exception Technology and Software under Restriction (TSR) in § 740.6 of the EAR to export or reexport software or technology controlled for national security reasons, the exporter or reexporter must obtain a written assurance from the consignee that the software or technology transferred and its direct product will not be sent to destinations in Country Group D:1 or E:1 or released to nationals thereof. This rule retains that restriction with respect to Cuba by adding Country Group E:2 to those written assurance requirements. The need for a written assurance is appropriate for countries in Country Groups E:1 and E:2. However, until the removal of Cuba from Country Group E:1, listing both country groups would have been redundant.

Note that License Exception TSR does not authorize exports or reexports to Cuba because it is not specified in § 746.2(a)(1) of the EAR and because, by its terms, License Exception TSR is available only for destinations in Country Group B, which does not include Cuba.

Supplement No. 2 to Part 748 – Unique Application and Submission Requirements

Supplement No. 2 to Part 748 of the EAR describes information required to be included in license applications for certain specific situations. Paragraph (i)(2)(x) requires that technology intended to accompany any shipment to destinations in Country Group D:1 or E:1 be described in the application. Paragraph (o)(3)(i) requires applicants for licenses to export or reexport national security controlled technology to obtain a written assurance against transfer to destinations in Country Groups D:1 or E:1. This rule adds Country Group E:2 to both paragraphs to continue both requirements with respect to Cuba.

Export clearance requirements

Part 758 of the EAR describes certain export clearance requirements. Section 758.1(b)(1) makes the \$2,500 threshold below which most exports need not be filed in the Automated Export System (AES) inapplicable for exports to Country Group E:1 by requiring such filing for exports to Country Group E:1 regardless of value. This rule retains that requirement for exports to Cuba by adding Country Group E:2 to § 758.1(b)(1).

Section 758.2(b)(3) makes export to Country Group E:1 grounds for rejecting applications for post-departure filing in AES (*i.e.*, authorization to file after the exporting carrier departs the port of export). This rule retains export to Cuba as a ground for rejection by adding Country Group E:2 to § 758.2(b)(3).

License Condition General Order

Supplement No. 1 to Part 736 of the EAR contains certain general orders. This rule adds General Order No. 3, which was reserved, to continue all restrictions on transactions with Cuba or Cuban nationals, by reference to Country Group E:1, that are contained in licenses issued

prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Certain licenses issued by BIS contain conditions that restrict the export, reexport, or transfer (in-country) to State Sponsors of Terrorism and countries subject to unilateral embargo by reference to Country Group E:1. Many of those restrictions were intended to apply to Cuba, not only as a State Sponsor of Terrorism but also as a country subject to unilateral embargo. However, BIS did not always list both Country Groups E:1 and E:2 in license conditions because, at the time, doing so would have been redundant. This general order applies those conditions to Country Groups E:1 and E:2. Licensees who seek authorization for transactions that are affected by General Order No. 3, may submit license applications that refer to General Order No. 3 and explain the reason for the request in Block 24 of the application. All license applications involving Cuba are reviewed pursuant to the licensing policy in § 746.2(b) of the EAR.

ECCN 4A003

This rule adds a reference to Country Group E:2 to the note that immediately follows the control table in ECCN 4A003. That note states that except for destinations in Country Group E:1, no license is required for computers with an Adjusted Peak Performance not exceeding 8.0 weighted teraFLOPS. The addition of Country Group E:2 retains Cuba's status as a destination for which a license is required.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the

Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a “significant regulatory action,” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This rule involves a collection of information approved under OMB control number 0694-0088 – Simplified Network Application Processing+ System (SNAP+) and the Multipurpose Export License Application, which are the methods for submitting *all* license applications, commodity classification requests and similar requests to BIS. The estimated annual total burden of all of those submissions is 31,833 hours. BIS

believes that this rule will have no material impact on that burden. To the extent that it has any impact, this rule is likely to reduce the burden for two reasons. First, this rule might reduce the burden because it makes some transactions, primarily temporary sojourns in Cuba of general aviation aircraft, which would otherwise require a license, eligible for a license exception. Second, because this rule raises the percentage of U.S.-origin content that a foreign-made item must have before its export from abroad to Cuba becomes subject to the EAR, it reduces the number of foreign-made items that will need a license from BIS to be exported from abroad to Cuba.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget, by e-mail at jseehra@omb.eop.gov or by fax to (202) 395-7285 and to William Arvin at william.arvin@bis.doc.gov.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (*See* 5 U.S.C. 553(a)(1)). This rule is a part of the implementation of the rescission of Cuba's designation as a State Sponsor of Terrorism, which became effective on May 29, 2015. Delay in implementing this rule to obtain public comment would undermine the foreign policy objectives that the rule is intended to implement. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be

given for this rule under 5 U.S.C. 553, or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Parts 736 and 772

Exports.

15 CFR Parts 740, 748, 750, and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Parts 746 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 734, 736, 740, 742, 746, 748, 750, 758, 772, and 774 of the Export Administration Regulations (15 CFR parts 730-774) are amended as follows:

PART 734 – [AMENDED]

1. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014).

2. Section 734.4 is amended by revising paragraph (a)(6)(ii) to read as follows:

§ 734.4 *De minimis* U.S. content.

(a) * * * * *

(6) * * *

(ii) There is no *de minimis* level for foreign-made items that incorporate U.S.-origin 9x515 or “600 series” .y items when destined for a country listed in Country Group E:1 or E:2 of Supplement No. 1 to part 740 of the EAR or for the People’s Republic of China (PRC).

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PART 736 – [AMENDED]

3. The authority citation for 15 CFR part 736 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014); Notice of May 6, 2015, 80 FR 26815 (May 8, 2015).

4. Section 736.2 is amended by revising paragraphs (b)(3)(i) and (iii) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(3) *General Prohibition Three — Reexport and export from abroad of the foreign-produced direct product of U.S. technology and software (Foreign-Produced Direct Product Reexports)--*

(i) *Country scope of prohibition.* You may not, without a license or license exception, reexport any item subject to the scope of this General Prohibition Three to a destination in Country Group D:1, E:1, or E:2 (See Supplement No.1 to part 740 of the EAR). Additionally, you may not, without a license or license exception, reexport or export from abroad any ECCN 0A919 commodities subject to the scope of this General Prohibition Three to a destination in Country Group D:1, D:3, D:4, D:5, E:1, or E:2.

* * * * *

(iii) *Country scope of prohibition for 9x515 or “600 series” items.* You may not, except as provided in paragraphs (b)(3)(v) or (vi) of this section, reexport or export from abroad without a license any “600 series” item subject to the scope of this General Prohibition Three to a

destination in Country Groups D:1, D:3, D:4, D:5, E:1, or E:2 (see Supplement No. 1 to part 740 of the EAR). You may not, except as provided in paragraphs (b)(3)(v) or (vi) of this section, reexport or export from abroad without a license any 9x515 item subject to the scope of this General Prohibition Three to a destination in Country Groups D:5, E:1, or E:2 (see Supplement No. 1 to part 740 of the EAR).

* * * * *

5. Supplement No. 1 to part 736 is amended by revising the heading and paragraph (c) to read as follows:

Supplement No. 1 to Part 736 – General Orders

* * * * *

(c) General Order No. 3:

General Order No. 3 of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Certain licenses issued by BIS prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] contain conditions that restrict the export, reexport, or transfer (in-country) to or within Country Group E:1 as specified in Supplement No. 1 to part 740 of the EAR. At the time those license were issued, Cuba was in Country Group E:1. Many of those restrictions were intended to apply to Cuba, not only as a State Sponsor of Terrorism but also as a country subject to unilateral embargo. However, BIS did not always list both Country Groups E:1 and E:2 in license conditions because, at the time, doing so would have been redundant. However, with the rescission of Cuba’s designation as a State Sponsor of Terrorism and resultant removal from Country Group E:1, continuing those conditions with respect to Cuba is consistent

with the embargo. Accordingly, all conditions that apply to Country Group E:1 on licenses issued prior to [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] that are in effect on that date, are revised to apply to Country Groups E:1 and E:2 as specified in Supplement No. 1 to part 740 of the EAR. Licensees who seek authorization for transactions that are affected by this General Order No. 3 may submit license applications that refer to General Order No. 3 and explain the reason for the request in Block 24 of the application. All license applications involving Cuba are reviewed pursuant to the licensing policy in § 746.2(b) of the EAR. The request should provide any available information in support of the argument that the transaction would be consistent with the licensing policy in § 746.2(b) of the EAR.

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PART 740 – [AMENDED]

6. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 7201 *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 7, 2014, 79 FR 46959 (August 11, 2014).

§ 740.6 [Amended]

7. Section 740.6 is amended by removing the phrase “D:1 or E:1” wherever it appears in paragraphs (a)(1) and (2) and adding in its place the phrase “D:1, E:1, or E:2”.

Supplement No. 1 to Part 740 [Amended]

8. Supplement No. 1 to part 740 is amended by removing the “X” from the row for Cuba in the E:1 column of the “Country Group E” table.

PART 742 – [AMENDED]

9. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014).

§ 742.1 [Amended]

10. Section 742.1 is amended by removing the word “Cuba” and the comma that follows it from each place that it appears in paragraph (d).

Supplement No. 2 to Part 742 [Amended]

11. Supplement No. 2 to part 742 is amended by removing the word “Cuba” and the comma that follows it from paragraphs (a) and (b)(1).

PART 746 – [AMENDED]

12. The authority citation for 15 CFR part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108-11, 117 Stat. 559; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Presidential Determination 2007-7 of December 7, 2006, 72 FR 1899 (January 16, 2007); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of May 6, 2015, 80 FR 26815 (May 8, 2015).

13. Section 746.2 is amended by:

- a. Removing paragraph (b)(3);
- b. Redesignating paragraphs (b)(4), (5), and (6) as paragraphs (b)(3), (4), and (5), respectively;
- c. Removing the phrase “or counter-terrorism” from the first sentence of newly designated paragraph (b)(3)(i);
- d. Removing paragraph (c);
- e. Redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively; and
- f. Revising newly designated paragraph (d).

The revision to read as follows:

§ 746.2 Cuba.

* * * * *

(d) *Related controls.* OFAC maintains controls on the activities of persons subject to U.S. jurisdiction, wherever located, involving transactions with Cuba or any Cuban national, as provided in 31 CFR part 515. Exporters and reexporters should consult with OFAC for further guidance on its related controls.

PART 748 – [AMENDED]

14. The authority citation for 15 CFR part 748 continues to read as follows:

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 7, 2014, 79 FR 46959 (August 11, 2014).

Supplement No. 2 to Part 748 [Amended]

15. Supplement No. 2 to part 748 is amended by removing the phrase “Country Group D:1 or E:1” wherever it appears in paragraphs (i)(2)(x) and (o)(3)(i) and adding in its place the phrase “Country Group D:1, E:1, or E:2”.

PART 750 – [AMENDED]

16. The authority citation for 15 CFR part 750 continues to read as follows:

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. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13,

2013); Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 750.4 [Amended]

17. Section 750.4 is amended by removing the word “Cuba” and the comma immediately following it from paragraph (b)(6)(i).

PART 758 – [AMENDED]

18. The authority citation for 15 CFR part 758 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 758.1 [Amended]

19. Section 758.1 is amended by adding the phrase “or E:2” immediately following the phrase “Country Group E:1” in paragraph (b)(1).

§ 758.2 [Amended]

20. Section 758.2 is amended by adding the phrase “or E:2” immediately following the phrase “Country Group E:1” in paragraph (b)(3).

PART 772 – [AMENDED]

21. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 772.1 [Amended]

22. Section 772.1 is amended by removing the word “Cuba” and the comma that follows it from the definition of “Countries supporting international terrorism.”

PART 774 – [AMENDED]

23. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; 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 7, 2014, 79 FR 46959 (August 11, 2014).

24. In supplement No. 1 to part 774 (The Commerce Control List), Export Control Classification Number (ECCN) 1C350 is amended by revising second paragraph that follows the License Requirements table to read as follows:

Supplement No. 1 to Part 774 – The Commerce Control List

* * * * *

1C350 Chemicals that may be used as precursors for toxic chemical agents (see List of Items Controlled).

License Requirements

* * * * *

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Iran, North Korea, and Syria.)

* * * * *

25. In supplement No. 1 to part 774, ECCN 1C355 is amended by revising the second “Control(s)” paragraph to read as follows:

1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and families of chemicals not controlled by ECCN 1C350 or “subject to the ITAR” (see 22 CFR parts 120 through 130) (see List of Items Controlled).

License Requirements

* * * * *

Control(s): * * *

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C350. A license is required, for AT reasons, to export or reexport items controlled by 1C350 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Iran, North Korea, and Syria.)

* * * * *

26. In supplement No. 1 to part 774, ECCN 1C395 is amended by revising the third “Control(s)” paragraph to read as follows:

1C395 Mixtures and Medical, Analytical, Diagnostic, and Food Testing Kits Not Controlled by ECCN 1C350, as follows (See List of Items Controlled).

License Requirements

* * * * *

Control(s): * * *

AT applies to entire entry. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for AT reasons in 1C395. A license is required, for AT reasons, to export or reexport items controlled by 1C395 to a country in Country Group E:1 of Supplement No. 1 to part 740 of the EAR. (See part 742 of the EAR for additional information on the AT controls that apply to Iran, North Korea, Sudan, and Syria. See part 746 of the EAR for additional information on sanctions that apply to Iran, North Korea, and Syria.)

* * * * *

27. In supplement No. 1 to part 774, ECCN 2A994 is amended by revising the “Control(s)” paragraph to read as follows:

2A994 Portable electric generators and “specially designed” “parts” and “components.”

* * * * *

Control(s): AT applies to entire entry. A license is required for items controlled by this entry to Iran and North Korea. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information on Iran. See § 742.19 of the EAR for additional information on North Korea.

* * * * *

28. In supplement No. 1 to part 774, ECCN 2D994 is amended by revising the “Control(s)” paragraph to read as follows:

2D994 “Software” “specially designed” for the “development” or “production” of portable electric generators controlled by 2A994.

License Requirements

* * * * *

Control(s): AT applies to entire entry. A license is required for items controlled by this entry to Iran and North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information on Iran. See § 742.19 of the EAR for additional information on North Korea.

* * * * *

29. In supplement No. 1 to part 774, ECCN 2E994 is amended by revising the “Control(s)” paragraph to read as follows:

2E994 “Technology” for the “use” of portable electric generators controlled by 2A994.

License Requirements

* * * * *

Control(s): AT applies to entire entry. A license is required for items controlled by this entry to Iran and North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information on Iran. See § 742.19 of the EAR for additional information on North Korea.

* * * * *

ECCN 4A001 – [Amended]

30. In supplement No. 1 to part 774, ECCN 4A003 is amended by adding the phrase “or E:2” immediately following the phrase “Country Group E:1” in the note that immediately follows the License Requirements table.

Dated: July 17, 2015.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

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