

§ 700.13 Acceptance and rejection of rated orders.

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(d) *Customer notification requirements.* (1) A person must accept or reject a rated order and transmit the acceptance or rejection in writing (hard copy), or in electronic format, within fifteen (15) working days after receipt of a DO rated order and within ten (10) working days after receipt of a DX rated order. If the order is rejected, the person must also provide the reasons for the rejection, pursuant to paragraphs (b) and (c) of this section, in writing (hard copy) or electronic format.

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Dated: March 1, 2005.

Matthew S. Borman,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 05-4326 Filed 3-4-05; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 744**

[Docket No. 041222360-4360-01]

RIN 0694-AD24

Licensing Policy for Entities Sanctioned Under Specified Statutes; License Requirement for Certain Sanctioned Entities; and Imposition of License Requirement for Tula Instrument Design Bureau

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule states BIS's licensing policy regarding transactions involving entities sanctioned by the State Department under three specified statutes, imposes a new license requirement for certain entities sanctioned by the State Department, and identifies one specific entity subject to this new license requirement, Tula Instrument Design Bureau of Russia.

DATES: This rule is effective March 7, 2005. Comments must be received by May 6, 2005.

ADDRESSES: Comments may be submitted by e-mail to rp22@bis.doc.gov, by fax at (202) 482-3355, or on paper to Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Refer to

Regulatory Identification Number (RIN) 0694-AD24 in all comments. Comments on the information collection should also be sent to David Rostker, Office of Management and Budget Desk Officer, by e-mail at david_rostker@omb.eop.gov, or by fax to (202) 395-7285. Refer to Regulatory Identification Number (RIN) 0694-AD24 in all comments.

FOR FURTHER INFORMATION CONTACT: William Arvin, Regulatory Policy Division, Office of Exporter Services at warvin@bis.doc.gov or (202) 482-2440.

SUPPLEMENTARY INFORMATION: Several statutes authorize or require the United States Government to impose export sanctions on entities if such entities have engaged in activities that contribute to the proliferation of weapons of mass destruction or are otherwise contrary to the foreign policy interests of the United States. This rule sets forth BIS's licensing policy for entities subject to sanctions imposed by the State Department under the Iran-Iraq Arms Nonproliferation Act of 1992 (Pub. L. 102-484), the Iran Nonproliferation Act of 2000 (Pub. L. 107-178) and section 11B(b)(1) of the Export Administration Act of 1979 (also known as the Missile Technology Control Act of 1990). This rule also imposes a new license requirement for certain entities sanctioned by the State Department, and identifies one specific entity, Tula Instrument Design Bureau of Russia, subject to this new license requirement.

Licensing Policy for Transactions Involving Sanctioned Entities

This rule amends the Export Administration Regulations (EAR) by adding new § 744.19 to set forth explicitly BIS's licensing policy regarding entities sanctioned by the State Department under the authority of three statutes. Specifically, new § 744.19 provides that BIS's policy is to deny any export or reexport license application if the applicant, other party authorized to receive the license, purchaser, intermediate consignee, ultimate consignee, or end-user is subject to: (1) A sanction issued pursuant to the Iran-Iraq Arms Nonproliferation Act of 1992 (Pub. L. 102-484) that prohibits the issuance of any license for any export by or to the sanctioned person or, (2) a sanction issued pursuant to the Iran Nonproliferation Act of 2000 (Pub. L. 107-178) that prohibits the granting of a license for the transfer to foreign persons of items, the export of which is controlled under the Export Administration Regulations, or (3) a sanction issued pursuant to section

11B(b)(1)(B)(ii) of the Export Administration Act of 1979, as amended (also known as the Missile Technology Control Act of 1990), that prohibits the issuance of new licenses for exports to the sanctioned entity of items controlled pursuant to the Export Administration Act of 1979. In addition, § 744.19 sets forth BIS's policy to deny any export or reexport application for items listed on the Commerce Control List with missile technology (MT) listed as a reason for control if any entity subject to a sanction issued pursuant to section 11B(b)(1)(B)(i) of the Export Administration Act of 1979, as amended, is a party to the transaction. Section 11B(b)(1)(B)(i) prohibits the issuance of new individual licenses for exports to the sanctioned entity of MTCR annex equipment or technology controlled pursuant to the Export Administration Act of 1979.

The State Department publishes notices of the imposition of sanctions under these three statutes in the **Federal Register**. Because they do not involve the imposition of any new license requirements, the sanctions do not require amendment of the EAR and, prior to publication of this rule, were not incorporated into or otherwise referenced in the EAR. The sanctions imposed under the three statutes, however, prescribe the licensing policy that BIS must apply to applications that involve the transfer of certain items to, and in the case of the Iran-Iraq Arms Nonproliferation Act of 1992 by, the sanctioned entity. New § 744.19 provides a reference to these sanctions in the EAR and also sets forth BIS's policy that a license application is subject to a general policy of denial if a sanctioned entity is listed as any party to the transaction, including the purchaser or intermediate consignee, on the license application.

New License Requirement

This rule adds new § 744.20 to the EAR to provide that BIS may impose, as new foreign policy controls, license requirements on exports and reexports of items subject to the EAR to entities sanctioned by the State Department. Such license requirements are in addition to those imposed by other provisions of the EAR. Decisions to impose such license requirements will be made on a case-by-case basis. In determining whether to impose license requirements pursuant to § 744.20, BIS will consider the nature of the action that led to the State Department sanction and whether, because of that action, such sanctioned parties would not be reliable parties to export or reexport transactions subject to the EAR.

License requirements imposed pursuant to § 744.20 are foreign policy controls imposed pursuant to the provisions of § 6 of the Export Administration Act of 1979. License requirements pursuant to § 744.20 will be imposed by adding the sanctioned entity to the Entity List (Supplement No. 4 to part 744). The Entity List entry will also refer to § 744.20, state the license requirements that apply to the entity, what license exceptions, if any, are available, and the licensing policy that applies to the entity.

Addition of an Entity to the Entity List Pursuant to New § 744.20

This rule imposes a license requirement under new § 744.20 for exports or reexports to Tula Instrument Design Bureau (all locations including at Tula 300001, Russia) of the government of the Russian Federation (Tula) for all items subject to the EAR having a classification other than EAR99, prohibits use of any License Exception for such exports or reexports, and imposes a general policy of denial for all license applications to export or reexport to Tula. The rule adds Tula to the Entity List (Supplement No. 4 to part 744 of the EAR).

On April 21, 1999, the State Department found, *inter alia*, that Tula was a Government of Russia entity that was specifically involved in the transfer of lethal military equipment to a country determined by the Secretary of State to be a state sponsor of terrorism. Because of that finding, the State Department determined that “the policy of the United States Government [is] to deny U.S. Government Assistance to [Tula]” (see 64 FR 23148, April 29, 1999). BIS is imposing this license requirement, prohibition on use of license exceptions, and policy of denial, to further the foreign policy interest of the United States in deterring the transfer of lethal military equipment to state sponsors of terrorism.

This action is a new foreign policy control imposed pursuant to the requirements of § 6 of the Export Administration Act and requires a report to Congress. The report was delivered to Congress on February 25, 2005.

Although the Export Administration Act of 1979 (EAA), as amended, expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)) as extended by the Notice of August 6, 2004, 69 FR 48763 (August 10, 2004), continues the EAR in effect under the International Emergency Economic Powers Act (IEEPA).

Savings Clause

Exports and reexports that did not require a license or that were eligible for a License Exception prior to publication of this rule and for which this rule imposes a new license requirement or removes that License Exception availability may be made without a license or under that License Exception if the items being exported or reexported were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export pursuant to actual orders for export or reexport on or before March 22, 2005, and exported or reexported on or before April 6, 2005. Any such exports or reexports not meeting those deadlines require a license in accordance with this rule.

Rulemaking Requirements

1. This rule has been determined not to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor 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 regulation involves collections previously approved by the OMB under control numbers 0694–0088, “Multi-Purpose Application,” which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Burden hours associated with the Paperwork Reduction Act and Office and Management and Budget control number 0694–0088 are not impacted by this regulation. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, OMB Desk Officer, by e-mail at david_rostker@omb.eop.gov or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. This rule does not contain policies with federalism implications as that term is defined in 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)). 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 by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. However, BIS is issuing this rule in interim final form with a request for comments.

Request for Comments

BIS is seeking public comments on this interim final rule. The period for submission of comments will close May 6, 2005. BIS will consider all comments received on or before that date in developing any final rule. Comments received after that date will be considered if possible, but their consideration cannot be assured. BIS will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. BIS will return such comments and materials to the persons submitting the comments and will not consider them in the development of the final rule. All public comments on this proposed rule must be in writing (including fax or e-mail) and will be a matter of public record, available for public inspection and copying. The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–0637 for assistance.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ For the reasons set forth in the preamble, part 744 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for part 744 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; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; 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. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

■ 2. In § 744.1, add two sentences immediately following the eighth sentence in paragraph (a)(1) and revise the third sentence of paragraph (c) to read as follows:

§ 744.1 General provisions.

(a)(1) *Introduction.* * * * Section 744.19 sets forth BIS's licensing policy for applications for exports or reexports when a party to the transaction is an entity that has been sanctioned pursuant to any of three specified statutes that require certain license applications to be denied. Section 744.20 requires a license, to the extent specified in Supplement No. 4 to this part, for exports and reexports of items subject to the EAR destined to certain sanctioned entities listed in Supplement No. 4 to this part. * * *

(c) * * * No License Exceptions are available for exports and reexports to listed entities of specified items, except License Exceptions for items listed in § 740.2(a)(5) of the EAR destined to listed Indian or Pakistani entities to ensure the safety of civil aviation and safe operation of commercial passenger aircraft, and in the case of entities added to the Entity List pursuant to § 744.20, to the extent specified on the Entity List.

■ 3. In part 744, add § 744.19 to read as follows:

§ 744.19 Licensing policy regarding persons sanctioned pursuant to specified statutes.

Notwithstanding any other licensing policy elsewhere in the EAR, BIS will deny any export or reexport license application if the applicant, other party authorized to receive a license, purchaser, intermediate consignee, ultimate consignee, or end-user is subject to one or more of the sanctions described in paragraphs (a), (b), and (c) of this section and will deny any export or reexport license application for an item listed on the Commerce Control List with a reason for control of MT if such party is subject to a sanction described in paragraph (d) of this section.

(a) A sanction issued pursuant to the Iran-Iraq Arms Nonproliferation Act of 1992 (Public Law 102–484) that prohibits the issuance of any license to or by the sanctioned entity.

(b) A sanction issued pursuant to the Iran Nonproliferation Act of 2000 (Public Law 106–178) that prohibits the granting of a license for the transfer to foreign entities of items, the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.

(c) A sanction issued pursuant to section 11B(b)(1)(B)(i) of the Export Administration Act of 1979, as amended, and as carried out by Executive Order 13222 of August 17, 2001, that prohibits the issuance of new licenses for exports to the sanctioned entity of items controlled pursuant to the Export Administration Act of 1979.

(d) A sanction issued pursuant to section 11B(b)(1)(B)(ii) of the Export Administration Act of 1979, as amended (Missile Technology Control Act of 1990), and as carried out by an Executive Order 13222 of August 17, 2001, that prohibits the issuance of new licenses for exports to the sanctioned entity of MTCR Annex equipment or technology controlled pursuant to the Export Administration Act of 1979.

■ 4. In part 744, add § 744.20 to read as follows:

§ 744.20 License requirements that apply to certain sanctioned entities.

BIS may impose, as foreign policy controls, export and reexport license requirements and set licensing policy with respect to certain entities that have been sanctioned by the State Department. Such license requirements and policy are in addition to those imposed elsewhere in the EAR. License requirements and licensing policy may be imposed pursuant to this section even when the sanction and the legal authority under which the State Department imposed the sanction do not require or authorize the imposition of any license requirement or licensing policy. License requirements and licensing policy will be imposed pursuant to this section by adding an entity to the Entity List in accordance with paragraphs (a), (b), and (c) of this section.

(a) *General requirement.* Certain entities that have been sanctioned by the State Department are listed in Supplement No. 4 to this part (the Entity List) with a reference to this section. A license is required, to the extent specified on the Entity List, to export or reexport any item to such entities.

(b) *License exceptions.* No license exception may be used to export or reexport to such entities unless specifically authorized on the Entity List.

(c) *Licensing policy.* Applications to export or reexport to such entities will be reviewed according to the licensing policy set forth on the Entity List.

■ 5. In Supplement No. 4 to part 744 add a new entry for the Tula Instrument Design Bureau under Russia, immediately following the entry for Moscow Aviation Institute as follows:

SUPPLEMENT NO. 4 TO PART 744.—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
	Tula Instrument Design Bureau (all locations, including at Tula 300001, Russia) (§ 744.20 of the EAR).	All items subject to the EAR having a classification other than EAR99; no License Exceptions available.	Presumption of Denial	[F. Reg. Citation], 03/07/05.

Dated: March 2, 2005.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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BILLING CODE 3510-33-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 10, 24, 162, 163, 178 and 191

[CBP Dec. 05-07]

RIN 1505-AB47

United States-Chile Free Trade Agreement

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security; Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document amends the Customs and Border Protection ("CBP") Regulations on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the United States-Chile Free Trade Agreement entered into by the United States and the Republic of Chile.

DATES: Interim rule effective March 7, 2005; comments must be received by June 6, 2005.

ADDRESSES: You may submit comments, identified by the Regulatory Information Number ("RIN") and/or by the title "United States-Chile Free Trade Agreement," by one of the following methods:

- EPA Federal Partner EDOCKET Web Site: <http://www.epa.gov/feddoctet>. Follow instructions for submitting comments on the Web site. The Department of Homeland Security ("DHS"), including CBP, has joined the Environmental Protection Agency ("EPA") online public docket and comment system on its Partner Electronic Docket System ("Partner EDOCKET"). As an agency of the DHS, CBP will use the EPA Federal Partner EDOCKET system.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail, hand delivery or courier: paper, disk or CD-ROM submissions may be mailed or delivered to the

Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number (if available) or RIN number for this rulemaking. All comments received will be posted without change to <http://www.epa.gov/feddoctet>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.epa.gov/feddoctet>. You may also access the Federal eRulemaking Portal at <http://www.regulations.gov>. Comments may be inspected at the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., (5th Floor), Washington, DC during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Textile Operational Aspects: Robert Abels, Office of Field Operations, (202) 344-1959.

Other Operational Aspects: Lori Whitehurst, Office of Field Operations, (202) 344-2722.

Audit Aspects: Mark Hanson, Office of Regulatory Audit, (202) 344-2877.

Legal Aspects: Edward Leigh, Office of Regulations and Rulings, (202) 572-8827.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2003, the United States and the Republic of Chile (the "Parties") entered into an agreement, the U.S.-Chile Free Trade Agreement ("US-CFTA"). The stated objectives of the US-CFTA are to: Encourage expansion and diversification of trade between the Parties; eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties; promote conditions of fair competition in the free trade area; substantially increase investment opportunities in the territories of the Parties; provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory; create effective procedures for the implementation and application of the US-CFTA, for its joint administration and for the resolution of disputes; and establish a framework for further bilateral and multilateral cooperation to expand and enhance the benefits of the US-CFTA.

The provisions of the US-CFTA were adopted by the United States with the

enactment of the United States-Chile Free Trade Agreement Implementation Act (the "Act"), Pub. L. 108-77, 117 Stat. 909 (19 U.S.C. 3805 note)(2003).

Customs and Border Protection (CBP) has the responsibility to administer the provisions of the US-CFTA and the Act which relate to the importation of goods into the United States from Chile. Those customs-related US-CFTA provisions which require implementation through regulation include certain tariff and non-tariff provisions within Chapter Three (National Treatment and Market Access for Goods) and the provisions of Chapter Four (Rules of Origin and Origin Procedures) and Chapter Five (Customs Administration).

The tariff-related provisions within US-CFTA Chapter Three which require regulatory action by CBP are Article 3.7 (Temporary Admission of Goods), Article 3.8 (Drawback and Duty Deferral Programs), Article 3.9 (Goods Re-Entered after Repair or Alteration), Article 3.10 (Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials) and Article 3.20 (Rules of Origin and Related Matters).

Chapter Four of the US-CFTA sets forth the rules for determining whether an imported good qualifies as an originating good of the United States or Chile (US-CFTA country) and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment as provided for under Article 4.1 and Annex 4.1 of the US-CFTA. Under Article 4.1 within that Chapter, originating goods may be grouped in three broad categories: (1) Goods which are wholly obtained or produced entirely in one or both of the Parties; (2) goods which are produced entirely in those countries and which satisfy the specific rules of origin in US-CFTA Annex 4.1 (change in tariff classification requirement and/or regional value content requirement); and (3) goods which are produced entirely in one or both of the Parties exclusively from materials that originate in those countries. Article 4.2 sets forth the methods for calculating the regional value content of a good. Article 4.3 sets forth the rules for determining the value of materials for purposes of calculating the regional value content of a good and applying the *de minimis* rule. Article 4.4 sets forth the rules for determining whether accessories, spare parts or tools delivered with a good qualify as material used in the production of such good. Article 4.6 provides for accumulation of production by two or more producers. Article 4.7 provides a *de minimis* criterion. The remaining Articles within Section A of Chapter