RECORD OF COMMENTS: REVISION OF EXPORT AND REEXPOR
RESTRICTIONS ON LIBYA; INTERIM RULE

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 736, 740, 742, 744, 746, 762, and 772

[Docket No. 040422128-4128-01]

RIN 0694—AD14

Revision of Export and Reexport Restrictions on Libya

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to implement the President’s April 23, 2004, decision to revise United States sanctions against Libya. This rule also implements the transfer to the Department of Commerce from the Department of Treasury of the licensing jurisdiction for exports to Libya of items subject to the EAR.

DATES: This rule is effective April 29, 2004. Comments must be received on or before June 1, 2004.

ADDRESSES: Written comments should be sent to Sheila Quarerman, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044, or e-mail: squarter@bis.doc.gov.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Controls Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044; Telephone: (202) 482-4252, or e-mail: jroberts@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Overview: New Licensing Policy for Exports and Reexports to Libya

License Requirements for Exports and Reexports to Libya

Under the new policy established by this rule, BIS will require a license for the export or reexport of most items on the Commerce Control List (CCL) to Libya. This requirement applies to the export or reexport of all items under the jurisdiction of the Department of Commerce that are on the multilateral export control regime lists: the Wassenaar Arrangement (reason for control: National Security—NS), the Nuclear Suppliers’ Group (reason for control: Nuclear Nonproliferation—NP), the Australia Group (reasons for control: Chemical and Biological Weapons—CB) and the Missile Technology Control Regime (reason for control: Missile Technology—MT).

A license requirement also applies to items unilaterally controlled for crime control (CC) or regional stability (RS) reasons.

In addition, a license requirement applies to most U.S.-origin items unilaterally controlled for anti-terrorism (AT) reasons, as set forth specifically in new § 742.20 of the EAR.

The license requirements described above are reflected in the relevant columns of the Country Chart in Supplement No. 1 to part 738 of the EAR. BIS also will require a license for certain categories of items that are controlled for reasons not included on the Country Chart: encryption (EI), short supply (SS), Chemical Weapons (CW), Computers (XP), and Significant Items (SI).

Items subject to the EAR but not specifically listed on the CCL—referred to as EAR99 items—do not require an export or reexport license to Libya. This rule, however, does not relieve exporters and others of their responsibility to comply with obligations under the end user and end-use controls maintained under the Enhanced Proliferation Control Initiative (EPCI), as set forth in Part 744 of the EAR.

Licensing Policy

As set forth in new § 742.20 of the EAR, a general policy of denial will apply to applications for exports or reexports of the following items to Libya: items controlled for chemical and biological weapons proliferation reasons; military-related items controlled for national security reasons; items that are controlled for missile proliferation reasons; cryptographic, cryptoanalytic, and cryptologic items controlled for national security reasons; explosives detection equipment controlled under Export Control Classification Number (ECCN) 2A983; “Software” (ECCN 2D983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983; “Technology” (ECCN 2E983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983; commercial charges and devices controlled under ECCN 1C992; ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997; and technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals controlled under ECCN 1E355. All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components will generally be denied, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval.

Also, BIS will generally deny all applications for export and reexport to Libya of items controlled for AT (Column 1) reasons, and not described above, if such items are destined to military, police or intelligence end-users in Libya.

BIS will review, on a case-by-case basis, all other applications for exports or reexports to Libya under the
applicable licensing policy described in Part 742 of the EAR.

License Exceptions

Libya is presently listed in Country Groups D:2, D:3, D:4, E:1 and E:2, found in Supplement 1 to Part 740. This rule removes Libya from Country Group E:2. As a result, the following License Exceptions may be available, in whole or in part: TMP, RPL, GOV, GFT, TSU, BAG, and AVS. A specific transaction is eligible for a license exception only if it satisfies all of the terms and conditions of the relevant license exception and is not excluded by any of the restrictions that apply to all license exceptions, as set forth in the EAR (including, specifically, §740.2 Restrictions on all License Exceptions).

Transition for Licenses Granted by OFAC

To facilitate a smooth transition of licensing responsibility from OFAC to BIS, this rule extends the validity of licenses issued by OFAC for exports to Libya. OFAC licenses in effect as of April 29, 2004, are hereby continued in accordance with their terms, except as modified by this Rule or by BIS, as if issued by the Department of Commerce. For those licenses with specified expiration dates, such dates will continue to apply. Licenses without specified expiration dates will be valid through May 1, 2005. Items licensed by OFAC and subsequently returned from Libya to the United States do not require further authorization from BIS. However, persons returning items that were previously exported to Libya under a specific license granted by OFAC to the United States are subject to a recordkeeping requirement set forth in Part 762 of the EAR.

In addition, items exported or reexported to Libya under a specific OFAC license may not be transferred within Libya to a new end-user without further authorization from BIS. Reexports of items to countries other than the United States from Libya including those previously authorized under OFAC licenses must conform with the relevant provisions of the EAR for the country to which the items are being reexported. In certain circumstances, such reexports may be eligible for a License Exception or may not require a license. Such reexports will also be subject to a recordkeeping requirement.

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) as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003), continues the EAR in effect under the International Emergency Economic Powers Act. BIS amends the EAR in this rule under the provisions of the EAA as continued in effect under IEEPA and Executive Order 13222.

Rulemaking Requirements

1. This final rule has been determined to be significant for the 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 OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment 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)).

5. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

6. 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)).

7. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

8. 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)).

The period for submission of comments will close June 1, 2004. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business propriety nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be available for public inspection.

The public record concerning this regulation will be maintained in the Bureau of Industry and Security Freedom of Information Records Inspection Facility, Room 6881, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from the Bureau of Industry and Security Freedom of Information Officer, at the above address or by calling (202) 482–0500.

List of Subjects

15 CFR Parts 732 and 740

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

15 CFR Parts 736, 742, and 772
Exports, Foreign trade.

15 CFR Part 744
Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Part 746
Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.
15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Foreign trade. Reporting and recordkeeping requirements.

Accordingly, parts 732, 736, 740, 742, 744, 746, 762, and 772 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

PART 732—[AMENDED]

1. The authority citation for 15 CFR part 732 is revised to read as follows:


§ 732.1 [Amended]

2. Section 732.1 is amended:

a. By revising the phrase “Cuba, Iran, Iraq, and Libya.” in the next to last sentence of paragraph (d)(2) to read “Cuba, Iran, and Iraq.”; and

b. By revising the phrase “embargoed countries (e.g., Cuba, Iran, Iraq, and Libya).” in (d)(3) to read “countries subject to a comprehensive embargo (e.g., Cuba, Iran, and Iraq).”.

PART 732.2 [Amended]

3. Section 732.2 is amended by revising the phrase “Your export or reexport destination for the direct product is Cuba, Libya.” in paragraph (f)(1)(i) to read “Your export or reexport destination for the direct product is Cuba”.

PART 732.3 [Amended]

4. Section 732.3 is amended:

a. By revising the phrase “Your export or reexport destination for the direct product is Cuba, Libya.” in paragraph (f)(1)(i) to read “Your export or reexport destination for the direct product is Cuba”;

b. By revising the phrase “If your destination for any item is Cuba, Iran, Iraq, Libya or Rwanda” in paragraph (i)(1) to read “If your destination for any item is Cuba, Iran, Iraq, or Rwanda”; and

c. By revising paragraph (d)(4) to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

[ ] [ ] [ ] [ ]

[ ]

(4) Destinations subject to embargo provisions. The Country Chart does not apply to Cuba, Iran, and Iraq; and for those countries you should review the embargo provisions at part 746 of the EAR and may skip this step concerning the Country Chart. For Rwanda, the Country Chart provides for certain license requirements, and part 746 of the EAR provides additional requirements.

PART 736—[AMENDED]

5. The authority citation for 15 CFR part 736 is revised to read as follows:


PART 740—[AMENDED]

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


PART 738—[AMENDED]

7. The authority citation for 15 CFR part 738 is revised to read as follows:


8. Supplement No. 1 to part 738 is amended by revising the entry for “Libya” to read as follows:

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART

[Reason for control]

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<th>Countries</th>
<th>Chemical &amp; biological weapons</th>
<th>Nuclear non-proliferation</th>
<th>National security</th>
<th>Missle tech</th>
<th>Regional stability</th>
<th>Firearms convention</th>
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<td>NS 1</td>
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PART 740.2 [Amended]

9. The authority citation for 15 CFR part 740 is revised to read as follows:


§ 740.2 [Amended]

10. Section 740.2 is amended by revising the phrase “The export or reexport is to an embargoed destination (Cuba, Iran, Iraq, and Libya).” in paragraph (a)(9) to read “The export or reexport is to an embargoed destination (Cuba, Iran, Iraq)”.

§ 740.9 [Amended]

11. Section 740.9 is amended:

a. By revising the sentence “No foreign-origin items may be returned to Cuba or Libya.” in paragraph (b)(3) to read “No foreign-origin items may be returned to Cuba”;

b. By revising the phrase “A destination in Cuba or Libya” in paragraph (b)(4)(i) to read “A destination in Cuba”;

c. By revising the phrase “except Cuba, Iran, Iraq, Libya, and Sudan” in paragraph (c)(2) to read “except Cuba, Iran, Iraq, and Sudan”.

§ 740.15 [Amended]

12. Section 740.15 is amended by revising the phrase “to a country included in Country Group D:1, Cuba, or Libya.” in paragraph (b)(2) to read “to a country included in Country Group D:1. Cuba.”.

Supplement No. 1 to Part 740 [Amended]

13. Supplement No. 1 to part 740 is amended:

a. By removing Libya from Country Group E:2; and

b. By revising footnote 1(a) to Country Group E: to read “A comprehensive embargo against Cuba, Iran, Iraq, and Sudan; and”. 
PART 742—[AMENDED]

14. The authority citation for 15 CFR part 742 is revised to read as follows:


15. Section 742.1 is amended:

a. By revising the heading "Exports and reexports involving Cuba, Libya, Iran, and the Bosnian Serb-controlled areas of Bosnia-Herzegovina" of paragraph (e) to read "Exports and reexports involving Cuba, Iran, and Libya";

b. By revising the parenthetical phrase "(Cuba, Libya, Iraq, Iran, and the Bosnian Serb-controlled areas of Bosnia-Herzegovina)" in paragraph (e) to read "(Cuba, Iran, and Libya)";

c. By revising paragraph (d) to read as set forth below; and

(6) By revising the phrase "certain exports to and for the use of certain foreign vessels or aircraft; and certain exports to all countries for Libya aircraft." in paragraph (e) to read "certain exports to and for the use of certain foreign vessels and aircraft."

§ 742.1 Introduction

(d) Anti-terrorism Controls on Cuba, Iran, Libya, North Korea, Sudan and Syria. Commerce maintains anti-terrorism controls on Cuba, Iran, Libya, North Korea, Syria and Sudan under section 6(a) of the Export Administration Act. Items controlled under section 6(a) to Iran, Sudan, North Korea and Libya are described in §§742.8, 742.9, 742.10, 742.19 and 742.20, respectively, and in Supplement No. 2 to part 742. Commerce also maintains controls under section 6(j) of the EAR to Cuba, Libya, Iran, North Korea, Sudan and Syria. Items controlled to these countries under EAA section 6(j) are also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to Cuba, Libya, North Korea, Iran, Sudan or Syria. As noted in paragraph (e) of this section, if you are exporting or reexporting to Cuba, Iran, or Libya you should review part 746 of the EAR, Embargoes and Other Special Controls.

16. Part 742 is amended by adding a new § 742.20 as follows:

§ 742.20 Anti-terrorism: Libya.

(a) License requirements. (1) If AT Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, BIS requires a license for export and reexport to Libya for anti-terrorism purposes.

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

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

(1) Items described in paragraphs (c)(1) through (c)(15) of Supplement No. 2 to part 742. If destined to military, police, intelligence or other end-users in Libya, are controlled under column 6(j) of the Export Administration Act, as amended (EAA).

(2) Items listed in paragraphs (c)(1) through (c)(15) of Supplement No. 2 to part 742 destined to other end-users in Libya, as well as items to all end-users listed in (c)(6) through (c)(8), (c)(10) through (c)(14), (c)(16) through (c)(19), and (c)(22) through (c)(44) of Supplement No. 2 to part 742, are controlled to Libya under section 6(a) of the EAA.

(c) Licensing policy. (1) Applications for export and reexport to Libya of all items will be reviewed on a case-by-case basis, with a presumption of denial. These are items controlled to any destination for national security reasons to any destination.

(2) Military-related items controlled for national security reasons to any destination. These are items that contain NS Column 1 or RS Column 2 in the Country Chart column of the "License Requirements" section on an ECCN on the CCL.

(3) Commercial and military end-users. Applications described in paragraphs (b)(1) and (b)(2) of this section will be reviewed on a case-by-case basis.

(iv) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components, except that parts and components intended to ensure the safety of civil aviation and the safe operation of commercial passenger aircraft will be reviewed on a case-by-case basis, with a presumption of approval. These are items controlled to any destination for national security reasons to any destination.

Note that, consistent with the general rule that applies to computing U.S. parts and components content incorporated into foreign-made products, all aircraft-related items that require a license to Libya will be controlled U.S. content, except for ECCNs 6A998. 7A994, and 9A991.d, for purposes of such licensing requirements.

(c) Cryptographic, cryptoanalytic, and crypto-logic items controlled to any destination for national security reasons. Such items contain an AT column 1 and an NS Column 1 or NS Column 2 in the Country Chart column of the "License Requirements" section on an ECCN on the CCL.

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

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

(f) "Technology" (ECCN 2F983) specially designed or modified for the "development", "production" or "use" of explosives detection equipment controlled by 2A983.

(g) Commercial and military end-users. Applications described in paragraphs (b)(1) and (b)(2) of this section will be reviewed on a case-by-case basis.

(h) Commercial and military end-users. Applications described in paragraphs (b)(1) and (b)(2) of this section will be reviewed on a case-by-case basis.
section, applications for Libya will be considered on a case-by-case basis if:
(i) The U.S. content of foreign-produced commodities is 20% or less by value; or
(ii) The commodities are medical items.

Note to paragraph (b) of this section:
Applicants who wish any of the factors described in paragraph (b) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content or the specifications and medical use of the equipment.

(4) License applications for items reviewed under 6(a) controls will also be reviewed to determine the applicability of 6(g) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of Libya, including its military logistics capability, or could enhance Libya's ability to support acts of international terrorism, the Secretary of State and the Secretary of Commerce and will notify the Congress 30 days prior to issuance of a license.

17. Supplement No. 2 to part 742 is revised to read as follows:

SUPPLEMENT NO. 2 TO PART 742—ANTI-TERRORISM CONTROLS: IRAN, NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

Note: Exports and reexports of items in performance of contracts entered into before the applicable contract sanction date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanction date. The contract sanction dates set forth in this Supplement are for the guidance of exporters. Contract sanction dates are only subject to the suspension of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If you believe that a specific contract sanction date is applicable to your transaction, you should include all relevant information with your license application. BIS will determine any applicable contract sanction date at the time an application with relevant supporting documents is submitted.

(a) Terrorist supporting countries. The Secretary of State has designated Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria as countries whose governments have repeatedly provided support for acts of international terrorism under section 6(f) of the Export Administration Act (EAA).

(b) Items controlled under EAA sections 6(g) and (6)(a). Whenever the Secretary of State determines that an export or reexport to any of these countries could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism, the item is subject to mandatory control under the EAA, and the Secretary of Commerce and Secretary of State are required to notify appropriate Committees of the Congress 30 days before a license for such an item may be issued.

(1) On December 28, 1993, the Secretary of State determined that the export to Cuba, Libya, Iraq, Iran, North Korea, Sudan, or Syria of items described in paragraphs (c)(1) through (c)(14), or any contractor, if destined to military, police, intelligence or other sensitive end-users, are controlled under EAA section 6(f). Therefore, the 30-day advance Congressional notification requirement applies to the export or reexport of these items to sensitive end-users in any of these countries.

(2) Licenses for items controlled for anti-terrorism reasons to Iran, Libya, North Korea, Sudan, and Syria are:
(i) Items described in paragraphs (c)(1) through (c)(5) to non-sensitive end-users, and
(ii) The following items to all end-users: items in paragraphs (c)(6) through (c)(16) of this Supplement: for Iran, Libya, North Korea, Sudan, and Syria.

(2) Items controlled for anti-terrorism reasons under section 6(f) to Iran, Libya, North Korea, Sudan, and Syria are:
(i) Items described in paragraphs (c)(1) through (c)(5) to non-sensitive end-users, and
(ii) The following items to all end-users: items in paragraphs (c)(6) through (c)(16) of this Supplement: for Iran, Libya, North Korea, Sudan, and Syria.

(b) Contract sanction date for military end-users or end-users of all other national security controlled items: September 28, 1984.

(c) Contract sanction date for non military end-users or end-users: August 28, 1991, unless otherwise specified in paragraphs (c)(10) through (c)(42) of this Supplement.

(ii) Syria Applications for military end-users or military end-use in Syria will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement. No contract sanction date is available for items valued at $7 million or more. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.

(b) Contract sanction date for all other items for all end-users: December 16, 1986.

(iii) Sudan Applications for military end-users or military end-use in Sudan will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.

(c) Contract sanction date for non military end-users or end-users: January 19, 1990, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(f)) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for all end-users in North Korea of such equipment will generally be denied.

(a) Libya Applications for military end-users or military end-use in Libya will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.

(c) Contract sanction date for all end-users: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(f)) have a contract sanction date of December 28, 1993.

(iii) Syria Applications for military end-users or end-users to Syria will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.

(ii) Libya Applications for all end-users in Libya will generally be denied.

(c) Contract sanction date for all end-users: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(f)) have a contract sanction date of December 28, 1993.

(iii) Syria Applications for military end-users or end-users to Syria will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.

(ii) Libya Applications for all end-users in Libya will generally be denied.

(c) Contract sanction date for all end-users: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(f)) have a contract sanction date of December 28, 1993.

(iii) Syria Applications for military end-users or end-users to Syria will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.

(ii) Libya Applications for all end-users in Libya will generally be denied.

(c) Contract sanction date for all end-users: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(f)) have a contract sanction date of December 28, 1993.

(iii) Syria Applications for military end-users or end-users to Syria will generally be denied. Applications for non-military end-users or end-users will be considered on a case-by-case basis, unless otherwise specified in paragraphs (c)(12) through (c)(42) of this Supplement.
case by case basis unless otherwise specified in paragraphs (c)(2) through (c)(4)(2) of this Supplement. No contract sanctity date is available.

(iii) Sudan. Applications for military end-users or end-users in Sudan will generally be denied. Applications for export and reexport to non-military end users or end-users will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(1)(2) through (c)(4)(2) of this Supplement. No contract sanctity date is available.

(iv) North Korea. Applications for all end users in North Korea will generally be denied.

(v) Libya. Applications for military end-users or end-users to Libya will generally be denied. Applications for non-military end users or end-users will be considered on a case-by-case basis unless otherwise specified in paragraphs (c)(1)(2) through (c)(4)(2) of this Supplement.

(c) Contract sanctity date for other aircraft and gas turbine engines therefor: December 16, 1986.

(d) Contract sanctity date for helicopter or aircraft parts and components controlled by ECCN 9A991.d: August 28, 1991.

(e) Sudan. Applications for all end-users in Sudan will generally be denied. Contract sanctity date: January 19, 1996.

(f) North Korea. Applications for all end-users in North Korea will generally be denied.

(g) Libya. Applications for all end-users in Libya will generally be denied.

(7) Heavy duty, on highway tractors.

(i) Iran. Applications for all end-users in Iran will generally be denied. Contract sanctity date: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end-users in Syria will generally be denied. Applications for non-military end-users or for non-military end uses in Syria will be considered on a case-by-case basis. Contract sanctity date: August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end-users in Sudan will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iv) North Korea. Applications for all end-users in North Korea will generally be denied.

(v) Libya. Applications for all end-users in Libya will generally be denied.

(8) Off-highway wheel tractors of carriage capacity 25 (10 tons) or more.

(i) Iran. Applications for all end-users in Iran will generally be denied. Contract sanctity date: October 22, 1987.

(ii) Syria. Applications for military end-users or for military end uses in Syria will generally be denied. Contract sanctity date: August 28, 1991.

(iii) Sudan. Application for military end-users or for military end uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iv) North Korea. Applications for all end-users in North Korea will generally be denied.

(v) Libya. Applications for all end-users in Libya will generally be denied.

(9) Large diesel engines (greater than 400 horsepower) and parts to power tank transporters.

(i) Iran. Applications for all end-users in Iran will generally be denied. Contract sanctity date: October 22, 1987.

(ii) Sudan. Applications for military end-users or for military end uses in Sudan will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(iii) North Korea. Applications for military end-users or for military end uses in North Korea will generally be denied. Applications for non-military end-users or for non-military end uses in North Korea will be considered on a case-by-case basis.

(10) Cryptographic, cryptoanalytic, and cryptologic equipment.

(i) Iran. Applications for all end-users in Iran will generally be denied.

(11) Applications for military end-users or end-users of cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.


(i) Syria. A license is required for all national security-controlled cryptographic, cryptoanalytic, and cryptologic equipment to all end-users. Applications for all end-users in Syria will generally be denied. Contract sanctity date for cryptographic, cryptoanalytic, and cryptologic equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(ii) Sudan. Applications for all end-users in Sudan of any such equipment will generally be denied. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(i) have a contract sanctity date of December 28, 1993).

(iii) North Korea. Applications for all end-users in North Korea of any such equipment will generally be denied.

(iv) Libya. A license is required for all national security-controlled cryptographic, cryptoanalytic, and cryptologic equipment to all end-users. Applications for all end-users in Libya will generally be denied.

(111) Navigation, direction finding, and radar equipment.

(i) Iran. Applications for all end-users in Iran will generally be denied.

(12) Contract sanctity date for military end-users or end-users of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(13) North Korea. Applications for military end-users or for military end uses in North Korea will generally be denied. Contract sanctity date: October 22, 1987.

(ii) Libya. Applications for military end-users or for military end uses in Libya will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.
Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanction date for exports of navigation, direction finding, and radar equipment that was subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other navigation, direction finding, and radar equipment August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Sudan: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under LAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) Libya. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contact sanction date for all other equipment of Libyan communications equipment: October 22, 1987.

(iii) Syria. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Syria: August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other electronic test equipment for all end-users: October 22, 1987.

(vii) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis.

(A) Contract sanction date for Sudan: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under LAA section 6(j) have a contract sanction date of December 28, 1993).

(v) Iraq. Applications for all end-users in Iran or of this equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Iran of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Iraq: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Iraq for foreign policy reasons under LAA section 6(j) have a contract sanction date of December 28, 1993).

(v) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Sudan: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under LAA section 6(j) have a contract sanction date of December 28, 1993).

(v) North Korea. Applications for military end-users or for military end-uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for North Korea: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment for all end-users: October 22, 1987.

(vii) Libya. A license is required for acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other acoustic underwater detection equipment that was subject to national security controls on August 28, 1991, to all end-users. Applications for military end-users or for military end-uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya of such equipment will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: October 22, 1987: see paragraph (c)(1)(ii) of this Supplement.
Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy under EAA section 6(i) have a contract sanctity date of December 28, 1993).

(iv) North Korea. Applications for military end-users or for military end-uses in North Korea of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea of these items will be considered on a case-by-case basis.

(v) Libya. A license is required for national security controlled vessels and boats. Applications for military end-users or for military end-uses in Libya of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(17) Marine and submarine engines (outboard/inboard, regardless of horsepower).

(i) Iran. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of marine and submarine engines that were subject to national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for outboard engines of 42 HP or more for all end-users: September 29, 1984.

(ii) Syria. A license is required for all marine and submarine engines subject to national security controls to all end-users. Applications for military end-users or for military end-uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. Contract sanctity date for marine and submarine engines that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(ii) of this Supplement.

(iii) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(i)) have a contract sanctity date of December 28, 1993.

(iv) North Korea. Applications for all end-users in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(vi) Iran. Applications for military end-users or for military end-uses in Iran of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Iran will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(ii) Syria. Applications for military end-users or for military end-uses in Syria of such system will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of underwater photographic equipment that subject national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment for all end-users: October 22, 1987.

(ii) Syria. Applications for military end-users or for military end-uses in Syria of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis.

(A) Contract sanctity date for military end-users or end-uses of underwater photographic equipment that subject national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other underwater photographic equipment: August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date: January 19, 1996.

(ii) Syria. Applications for military end-users or for military end-uses in Syria of such system will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of photographic equipment that subject national security controls on October 22, 1987: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other photographic equipment: August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end-uses in Sudan of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996, unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(i)) have a contract sanctity date of December 28, 1993.

(iv) North Korea. Applications for all end-users in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end-uses in North Korea will be considered on a case-by-case basis.

(v) Libya. Applications for military end-users or for military end-uses in Libya of such systems will generally be denied. Applications for non-military end-users or for non-military end-uses in Libya will be considered on a case-by-case basis.

(20) Scuba gear and related equipment.

(i) Iran. Applications for all end-users in Iran of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(ii) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Contract sanctity date: January 19, 1996.

(iii) North Korea. Applications for all end-users in North Korea of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(21) Pressurized aircraft breathing equipment.

(i) Iran. Applications for all end-users in Iran of such equipment will generally be denied. Contract sanctity date: October 22, 1987.

(ii) Sudan. Applications for military end-users or for military end-uses in Sudan of such equipment will generally be denied. Contract sanctity date: January 19, 1996.

(iii) North Korea. Applications for all end-users in North Korea of such equipment will generally be denied.

(22) Computer numerically controlled machine tools.

(i) Iran. Applications for all end-users in Iran of such items will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of computer numerically controlled machine tools that subject national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other computer numerically controlled machine tools for all end-users: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end-uses in Syria of such items will generally be denied. Contract sanctity date: January 19, 1996.

(23) Computer numerically controlled machine tools.

(i) Iran. Applications for all end-users in Iran of such systems will generally be denied.

(A) Contract sanctity date for military end-users or end-uses of computer numerically controlled machine tools that subject national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity dates for all other computer numerically controlled machine tools for all end-users: August 28, 1991.
(iii) *Sudan*. Applications for military end-users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanctity date for Sudan: January 19, 1996; unless a prior contract sanctity date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanctity date of December 28, 1993).

(iv) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya*. Applications for military end-users or for military end uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.


(i) *Iran*. Applications for all end-users in Iran of such equipment will generally be denied.

(ii) Contract sanctity date for military end-users and end uses of vibration test equipment that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(ii) Contract sanctity date for all other items for all end-users: August 28, 1991.

(iii) *Syria*. Applications for military end-users or for military end uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end uses will be considered on a case-by-case basis.

(A) Contract sanctity dates for military end-users and end uses of items that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other items for all end-users: August 28, 1991.

(iv) *North Korea*. Applications for all end-users in North Korea of such equipment will generally be denied.

(v) *Libya*. Applications for military end-users or for military end uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses will be considered on a case-by-case basis.

(26) Microprocessors.

(i) *Iran*. Applications for all end-users in Iran of these items will generally be denied.

(ii) Contract sanctity date for military end-users and end uses of microprocessors that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(iii) *Syria*. Applications for military end-users or for military end uses in Syria of these items will generally be denied. Applications for non-military end-users or for non-military end uses will be considered on a case-by-case basis.

(A) Contract sanctity dates for military end-users and end uses of microprocessors that were subject to national security controls on August 28, 1991: see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanctity date for all other microprocessors for all end-users: August 28, 1991.

(C) *Sudan*. Applications for military end-users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis.
these items will generally be denied. Applications for non-military end-users or for non-military end uses will be considered on a case-by-case basis.

(ii) With a CTP of 550 MOPS or above.

(A) North Korea. Applications for all end users in North Korea of these items will generally be denied.

(B) [RESERVED]

(27) Semiconductor manufacturing equipment. For Iran, Syria, Sudan, North Korea, or Libya, license is required for all such equipment described in ECCN 38101 and 38191.

(i) Iran. Applications for all end users in Iran of such equipment will generally be denied.

(A) Contract sanction date for military end-users and end uses of semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(ii) Syria. Applications for military end-users or for military end uses in Syria of such equipment will generally be denied.

(A) Contract sanction date for military end-users and end uses of semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction date for all other such equipment: August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanction date for Sudan, January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for military end-users or for military end uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses in North Korea will be considered on a case-by-case basis. Contract sanction date for North Korea, January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to North Korea for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(v) Libya. Applications for military end-users or for military end uses in Libya of such equipment will generally be denied.

(A) Contract sanction date for military end-users and end uses in Libya of such equipment that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such equipment: August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end uses in Sudan of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanction date for Sudan, January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for military end-users or for military end uses in North Korea of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses in North Korea will be considered on a case-by-case basis. Contract sanction date for North Korea, January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to North Korea for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(v) Libya. Applications for military end-users or for military end uses in Libya of such equipment will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.

(33) Specially designed software for air traffic control applications that uses any digital signal processing techniques for automatic target tracking or that has a facility for electronic tracking.

(i) Iraq. Applications for all end-users in Iran of such software will generally be denied.

(A) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction dates for all other such software: August 28, 1991.

(ii) Iran. Applications for military end-users or for military end uses in Iran of such software will generally be denied.

(A) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction date for all other such software: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end uses in Syria of such software will generally be denied.

(A) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction date for all other such software: August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end uses in Sudan of such software will generally be denied. Applications for non-military end-users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanction date for Sudan, January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for military end-users or for military end uses in North Korea of such software will generally be denied. Applications for non-military end-users or for non-military end uses in North Korea will be considered on a case-by-case basis. Contract sanction date for North Korea, January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to North Korea for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(v) Libya. Applications for military end-users or for military end uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.

(C) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such software: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end uses in Syria of such software will generally be denied.

(vi) Libya. Applications for military end-users or for military end uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.

(34) Gravity meters having static accuracy of less (better) than 100 microgal. or gravity meters of the quartz element (worden) type.

(i) Iran. Applications for all end-users in Iran of these items will generally be denied.

(A) Contract sanction date for military end-users and end uses of gravity meters that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such gravity meters for all end-users: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end uses in Syria of these items will generally be denied.

(A) Contract sanction date for military end-users and end uses of gravity meters that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such gravity meters for all end-users: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end uses in Syria of these items will generally be denied.

(vi) Libya. Applications for military end-users or for military end uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.

(C) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such software: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end uses in Syria of such software will generally be denied.

(vi) Libya. Applications for military end-users or for military end uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.

(C) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such software: August 28, 1991.

(ii) Syria. Applications for military end-users or for military end uses in Syria of such software will generally be denied.

(vi) Libya. Applications for military end-users or for military end uses in Libya of such software will generally be denied. Applications for non-military end-users or for non-military end uses in Libya will be considered on a case-by-case basis.

(C) Contract sanction date for military end-users and end uses of such software that was subject to national security controls on August 28, 1991; see paragraph (c)(1)(i) of this Supplement.

(B) Contract sanction dates for all other such software: August 28, 1991.
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(A) Contract sanction date for gravity meters that were subject to national security controls on August 28, 1991, see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for exports of all other such gravity meters. August 28, 1991.

(iii) Sudan. Applications for military end-users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis. Contract sanction date for Sudan January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for military end users or for military end uses in North Korea of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(c) Libya. Applications for military end-uses or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(ii) Syria. Applications for military end-users or for military end uses in Syria of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(iii) Sudan. Applications for military end-users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis. Contract sanction date for Sudan January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(i) Turkey. Applications for military end-users or for military end uses in Turkey of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(ii) Syria. Applications for military end-users or for military end uses in Syria of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(iii) Sudan. Applications for military end-users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis. Contract sanction date for Sudan January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for military end-users or for military end uses in North Korea of these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.
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these items will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(iii) Aircraft skin and spar milling machines.

(u) Iran. Applications for all end users in Iran of these items will generally be denied.

(A) Contract sanction date for military end users or end uses of aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other aircraft skin and spar milling machines: August 28, 1991.

(ii) Sudan. Applications for military end users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis.

(A) Contract sanction date for aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991; see paragraph (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other aircraft skin and spar milling machines: August 28, 1991.

(iii) Libya. Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.

(A) Contract sanction date for military end users or end uses of such robots that were subject to national security controls on August 28, 1991; see paragraphs (c)(1)(i) and (c)(1)(ii) of this Supplement.

(B) Contract sanction date for all other such robots: August 28, 1991.

(iii) Sudan. Applications for military end users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis.

(A) Contract sanction date for Sudan: January 19, 1996, unless a prior contract sanction date applies (e.g., items controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(iv) North Korea. Applications for military end users or for military end uses, or for nuclear end users or nuclear end uses, in North Korea of such equipment will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(A) Contract sanction date for North Korea: January 19, 1996, unless a prior contract sanction date applies (e.g., items controlled to North Korea for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(v) North Korea. Applications for military end users or for military end uses, or for nuclear end users or nuclear end uses, in North Korea of such equipment will generally be denied. Applications for non-military end users or for non-military end uses will be considered on a case-by-case basis.

(A) Contract sanction date for North Korea: January 19, 1996, unless a prior contract sanction date applies (e.g., items controlled to North Korea for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(vi) Libya. Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: January 19, 1996, unless a prior contract sanction date applies (e.g., items controlled to Libya for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(B) Contract sanction date for all other such robots: August 28, 1991.

(vii) Sudan. Applications for military end users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis.

(A) Contract sanction date for Sudan: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(B) Contract sanction date for all other such robots: August 28, 1991.

(viii) Libya. Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Libya for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(B) Contract sanction date for all other such robots: August 28, 1991.

(ix) Sudan. Applications for military end users or for military end uses in Sudan of these items will generally be denied. Applications for non-military end users or for non-military end uses in Sudan will be considered on a case-by-case basis.

(A) Contract sanction date for Sudan: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Sudan for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(B) Contract sanction date for all other such robots: August 28, 1991.

(x) Libya. Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.

(A) Contract sanction date for Libya: January 19, 1996, unless a prior contract sanction date applies (e.g., items first controlled to Libya for foreign policy reasons under EAA section 6(j) have a contract sanction date of December 28, 1993).

(B) Contract sanction date for all other such robots: August 28, 1991.

(x) Libya. Applications for military end users or for military end uses in Libya of these items will generally be denied. Applications for non-military end users or for non-military end uses in Libya will be considered on a case-by-case basis.
PART 744—[AMENDED]

18. The authority citation for 15 CFR part 744 is revised to read as follows:


744.8 [Reserved and removed]

19. Part 744 is amended by removing and reserving §744.8.

PART 746—[AMENDED]

20. The authority citation for 15 CFR part 746 is revised to read as follows:


746.1 [Amended]

21. Section 746.1 is amended:

a. By revising the phrase “currently Cuba, Libya, Iran, and Iraq,” in paragraph (a) to read “currently Cuba, Iran, and Iraq,”

b. By revising the heading “Cuba and Libya” for paragraph (a)(1) to read “Cuba”;

c. By revising the phrase “require a license to Cuba or Libya,” in paragraph (a)(1) to read “require a license to Cuba.”

746.4 [Removed and reserved]

22. Part 746 is amended by removing and reserving §746.4.

PART 762—[AMENDED]

23. The authority citation for 15 CFR part 762 is revised to read as follows:


762.2 [Amended]

24. Section 762.2 is amended by adding new paragraph (c) to read as follows:

(c) Special recordkeeping requirement.

(1) Libya. Persons in receipt of a specific license granted by the Department of the Treasury’s Office of Foreign Assets Control (OFAC) for the export to Libya of any item subject to the EAR must maintain a record of those items transferred to Libya pursuant to such specific license and record when the items are consumed or destroyed in the normal course of their use in Libya, reexported to a third country not requiring further authorization from BIS, or returned to the United States. This requirement applies only to items subject to a license requirement under the EAR for export to Libya as of April 29, 2004. These records must include the following information:

(a) Date of export or reexport and related details (including means of transport);

(b) Description of items (including ECCN) and value of items in U.S. Dollars;

(c) Description of proposed end-use and locations in Libya where items are intended to be used;

(d) Parties other than specific OFAC licensee who may be given temporary access to the items; and

(e) Date of consumption or destruction, if the items are consumed or destroyed in the normal course of their use in Libya, or the date of reexport to a third country not requiring further authorization from BIS, or return to the United States.

2] [Reserved]
c. By revising the phrase "for export to Iran, Libya and Sudan" in the paragraph entitled Medicines to read "for export to Iran and Sudan".


Peter Lichtenbaum,
Assistant Secretary for Export Administration.

[FR Doc. 04-9717 Filed 4-27-04; 1:21 pm]
BILLING CODE 3510-35-P
Please accept the attached comments relating to the a/r interim rule. The original is being posted by U.S. Mail today.

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"I'm uncomfortable when I'm comfortable ... I can't help it, it's my personality." -- Jay Chiat
May 28, 2004

Via U.S. MAIL

Sheila Quarterman
Regulatory Policy Division
Bureau of Industry and Security
Department of Commerce
P.O. Box 273
Washington, DC 20044

Re: Comment on Interim Rule Export and Re-Export Restrictions on Libya

Dear Ms. Quarterman:

Owen Oil Tools, LP ("Owen") hereby submits a comment on the Bureau of Industry and Security ("BIS") interim rule relating to “Revision of Export and Reexport Restrictions on Libya,” 69 Fed. Reg. 23,626 (April 29, 2004). We thank BIS for the opportunity to comment on this important set of new regulations. Owen has commentary on only one provision in the interim rule -- the interim section 742.20(b)(ix), which creates a policy of denial for export / re-export license requests relating to items covered under ECCN 1C992.

Owen is engaged in the manufacture of commercial charges (specifically, oil well perforators) covered under ECCN 1C992. Owen believes that a policy of denying license requests for 1C992 items would have little effect on preventing Libyan entities from accessing those items, but would prevent U.S. companies from participating on equal footing in the Libyan market with third-country competitors.

Commercial charges are widely available from foreign sources and have been for many years. In 1993, the Department of Commerce removed national security controls on commercial charges (then controlled under ECCN 1C18A), in large part because the commercial charges were “available ... from foreign sources in quantities sufficient to render the [national security] controls ineffective in achieving their purpose.” (See “Foreign Availability Determination and General License GFW Eligibility for Certain Oil Well Perforators Controlled by ECCN 1C18A.o,” 58 Fed. Reg. 61,806 (Dep’t Commerce November 23, 1993)). As in 1993, commercial charges today are available for supply to Libyan customers from a number of major third-country manufacturers. Major third-country manufacturers of commercial charges include DynaEnergetics (Germany), ETA (Argentina), and Prime Innicor (Canada). Owen also is aware of a number of state-owned enterprises in China and the former Soviet Union that produce commercial charges, including de-commissioned nuclear facilities in Russia that have been re-tooled to manufacture oil well perforators with the financing of the U.S. Department of Energy’s
Nuclear Cities Initiative.\(^1\) Commercial charges manufactured by those companies are free to be sold to customers in Libya. Indeed, commercial charges are more widely available now than in 1993, due to the emergence of new producers in a number of countries that previously had not exported commercial charges (such as China and countries in the former Soviet Union).

The commercial charges manufactured by foreign competitors are comparable to U.S.-manufactured charges in terms of functionality, technology, performance thresholds, and maintainability. To the extent there is any important difference between U.S.-produced and foreign-produced commercial charges, it is that the U.S. product tends to be much safer and more reliable to use. Owen's commercial charges are ISO and CE certified in terms of quality and safety, and U.S. producers generally are required to adhere to stringent product safety guidelines set forth by U.S. agencies (including the Department of Transportation, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the Federal Aviation Administration).

Commercial charges categorized under ECCN 1C992 cannot meaningfully be used for purposes other than their intended use, and do not pose a significant risk of being used as munitions. The commercial charges manufactured by Owen (and other U.S. producers) are costly, and commercial charges do not have a sufficient explosive capability to constitute a useful munitions item; if a charge device exceeds a specified quantity of explosive capacity, it would be classified as munitions items under ECCN 1C018 and would not be eligible for export to Libya without a license. Commercial charges also are highly tamper-resistant -- the explosives are consolidated under extremely high pressure into the charge case; the high pressure forms a physical bond between the case and the powder, and it is extremely difficult and unsafe to remove the explosive from the case. Moreover, in order to effectuate a detonation of a commercial charge, it is necessary to initiate the charge with detonating cord, which is, in turn, initiated by means of a detonator. Simply throwing the charge at a target or placing the charge in the pathway of a target likely would not cause the charge to detonate. It is, in short, highly unlikely that a terrorist or foreign government would incur the expense of acquiring a commercial charge for use as a munitions item, particularly insofar as there are other cheaper alternatives available.

Our company is sensitive to the potential diversion of our products for improper end-uses. We are unaware of any information indicating that commercial charges have been used for military or violent activities. If an individual did attempt to use a commercial charge as a munition, that person would find that commercial charges are poorly suited to the task.

Apart from the high standard of reliability and safety of U.S.-built charges, and the remote possibility that anyone could use a charge for a military or violent purposes, U.S. companies such as our

apply rigorous export compliance and material accountability measures when we export commercial charges abroad. It is typical that export licenses for such items, where required, contain a number of provisos to ensure that the products are not diverted to an improper end-use, or are not otherwise warehoused or disposed abroad. Even without such provisos, our company applies careful material accountability procedures when shipping these products abroad (or using them domestically) to ensure we know the whereabouts and use of these items. A general policy of denial would only mean that non-U.S. suppliers of these charges -- which would not be subject to U.S. regulatory jurisdiction, record-keeping requirements, and U.S. standards of material accountability and compliance -- would be supplying products. This would appear to be at odds with U.S. national interests in promoting a high level of confidence in the proper use of these items.

The denial policy for 1C992 items is inconsistent with the notion that U.S. companies should be actively involved in the Libyan energy sector. In contrast to the other countries for whom BIS has instituted a policy of denial for 1C992 items -- including North Korea, Sudan, and Syria (see 15 C.F.R. § 742) -- the U.S. government has recognized that Libya has renounced its past ties to terrorist activities and made significant strides to rejoin the family of nations. Owen believes there is a large market for commercial charges in the Libya. The only practical effect of a policy of denying 1C992 applications would be to prevent U.S. manufacturers of commercial charges from participating in the Libyan market.

Finally, commercial charges are a critical element of effective oil field production and increasing the availability of oil to U.S. and global needs. There are a number of U.S. companies, apart from Owen, that produce these commercial charges, and invest research and development funds to make the most effective product. We believe it is important for the broader U.S. industry to continue to be a leader in this field, and to be able to supply products to U.S. (and other) oil exploration and production companies. Accordingly, Owen strongly urges BIS to reconsider its policy of denial on 1C992 products, and to institute a case-by-case licensing framework that would allow U.S. producers to participate in the emerging Libya market.

Should you have any questions on the above, please feel free to contact Jeff West at Owen ((713)328-2624; jeff.west@corelab.com)) or David W. Boston at Owen Compliance Services, Inc. ((817) 551-0660; dwboston@ocsresponds.com).

Sincerely,

Jeffrey M. West
President
Owen Oil Tools, LP
Ms. Quarterman,

On behalf of Baker Hughes Incorporated, I would like to submit the attached comment letter on the interim rule on the "Revision of Export and Reexport Restrictions on Libya," 69 Fed. Reg. 23,626 (April 29, 2004). I would greatly appreciate confirmation of your receipt at your earliest convenience.

Please do not hesitate to contact me if you have any questions or comments regarding the attached letter.

Best regards,

J. Daniel Chapman
Legal Counsel
Baker Hughes Incorporated
Telephone: (713) 439-8041
Email: dan.chapman@bakerhughes.com
Via EMAIL.

Sheila Quarterman  
Regulatory Policy Division  
Bureau of Industry and Security  
Department of Commerce  
P.O. Box 273  
Washington, D.C. 20044

May 28, 2004

Dear Ms. Quarterman:

Comment -- Interim Revision of Export and Reexport Restrictions on Libya

On behalf of Baker Hughes Incorporated, I would like to submit this comment letter on the Bureau of Industry and Security ("BIS") interim "Revision of Export and Reexport Restrictions on Libya," 69 Fed. Reg. 23,626 (April 29, 2004). My comments are limited to section 742.20(b)(ix), which creates a policy of denial for export / re-export license requests relating to items covered under Export Control Classification Number ("ECCN") 1C992 of the Export Administration Regulations' Commerce Control List.

Baker Atlas,¹ which is an operational division of Baker Hughes, is engaged in the manufacture of oil well perforators, which are classified as "commercial charges" under ECCN 1C992. Well perforators are critical to oil well development and production. Perforating devices typically consist of a string of shaped charges held in place by metal strip and ignited by primacord. After a well is drilled and then evaluated,  

¹ Formerly known as Western Atlas International, Inc.
steel pipe -- known as "casing" -- is inserted into the well bore and cemented in place. The casing essentially serves as a seal and prevents the flow of fluids into the wellbore. Using an oil well perforating device, casings are perforated in specific areas to allow hydrocarbons to flow into the wellbore. Properly placed perforations will prevent water from flowing into the wellbore and also prevent drawing hydrocarbons away from other zones that are being produced by other wells in the vicinity. In this manner, well production is limited to only the zone or zones intended. Such a process is critical to ensure an efficient and productive oil well. Oil producers in Libya require well perforators to maintain their wells and, in fact, have been acquiring and using perforators, manufactured by third-country producers, throughout the period of U.S. economic and trade sanctions against Libya. Baker Atlas would like to have the option to export and use its own perforating charges in its own future operations, if any, in Libya. Baker Atlas currently has no desire to export its own perforating charges to Libya for sale. Therefore, Baker Hughes requests that BIS not adopt a policy of denial for export / re-export license requests relating to perforating charges covered under ECCN 1C992 and not foreclose the opportunity for Baker Hughes to make future license requests regarding perforating charges.

Baker Hughes believes that a policy of denying license requests for 1C992 items would have little effect on preventing Libyan entities from accessing commercial charges. Commercial charges -- and oil well perforators, specifically -- are widely available from third countries. The Department of Commerce recognized this commodity-like nature of this product market in 1993, when it removed national security controls on commercial charges (then controlled under ECCN 1C18A). The Department reached that decision on the basis of its finding that commercial charges were "available . . . from foreign sources in quantities sufficient to render the [national security] controls ineffective in achieving their purpose." Since the Department of Commerce's decision in 1993, commercial charges have become even more widely-available from third countries. A quick survey of a few Baker Atlas employees cited the following companies believed to be manufacturing perforating charges and the country in which this manufacturing is believed to occur.

<table>
<thead>
<tr>
<th>Company</th>
<th>Country of Export to Libya</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atlas GIP</td>
<td>Romania</td>
</tr>
<tr>
<td>China Oil Service Ltd.</td>
<td>China</td>
</tr>
<tr>
<td>Daqing Oilfield</td>
<td>China</td>
</tr>
<tr>
<td>Dynamit Nobel</td>
<td>Various locations</td>
</tr>
<tr>
<td>ETA</td>
<td>Argentina</td>
</tr>
<tr>
<td>Geoinform Ltd.</td>
<td>Hungary</td>
</tr>
<tr>
<td>Schlumberger</td>
<td>Various locations</td>
</tr>
<tr>
<td>Sichuan Oilfield</td>
<td>China</td>
</tr>
<tr>
<td>VINIPIVZRYVGEOPHYSICA</td>
<td>Russia</td>
</tr>
</tbody>
</table>

In fact, several decommissioned nuclear facilities in Russia have been retooled to manufacture oil well perforators with the financing of the U.S. Department of Energy's

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1 "Foreign Availability Determination and General License Generic Eligibility for Certain Oil Well Perforators Controlled by ECCN 1C18A," 58 Fed. Reg. 61,806 (Department of Commerce, November 23, 1993).
Nuclear Cities Initiative. Commercial charges manufactured by those companies are free to be sold to customers in Libya. Furthermore, the same quick survey of Baker Atlas employees also indicated that manufacturers in France, Germany and China may already be exporting perforating charges to Libya.

The commercial charges manufactured by foreign competitors are comparable to U.S.-manufactured charges in terms of functionality, technology, performance thresholds, and maintainability. Although perforating charges are essential and there is no substitute for their use in order to complete an oil well, they are a hazardous product. Each year, oil field workers are injured and killed when perforating charges prematurely ignite above ground, and oil wells are damaged when they prematurely ignite below ground. On the other hand, Baker Atlas has the testing, experience, and safety protocols to be confident in its own perforating charges and to know how they will work in combination with Baker Atlas's other tools and equipment. Because of these safety concerns, Baker Atlas strongly prefers to use perforating charges which it manufactures and for which it maintains strict quality controls and seeks to avoid the use of third party charges that increase the level of safety risk to the individuals providing these services.

As a practical matter, commercial charges categorized under ECCN 1C992 cannot be used for purposes other than their intended use, and they do not pose a significant risk of being used as munitions. The commercial charges manufactured by Baker Atlas are expensive and do not have a sufficient explosive capability to constitute a useful munitions item. Baker Atlas charges contain very small amounts of explosive material, which may vary between 3-48 grams (with an average of approximately 30 grams) depending on the size of the charge. Commercial charges also are highly tamper-resistant; the explosive materials in most commercial charges, including those produced by Baker Atlas, are bonded into the casing of the shell with a strong epoxy and cannot easily be removed without running the risk that the charge will detonate in the removal process. Moreover, in order to effectuate a controlled detonation of a commercial charge, an electrical charge is required -- simply throwing the charge, as one would a grenade, would not cause the charge to detonate. It is, in short, extremely unlikely that a terrorist or foreign government could misappropriate commercial charges for munitions purposes. Commercial charges are ill-suited for that purpose. To date, Baker Hughes is unaware of any instance where an oil well perforator has been misappropriated as a munitions item.

A number of measures, short of a policy of denial, are available to ensure that commercial charges shipped abroad are not used for improper purposes. In a case-by-case licensing framework, the Department of Commerce could review each application and ensure that the exports to Libya are destined for legitimate, actively-operating oil companies. Furthermore, Baker Hughes applies a number of important internal measures -- including material accountability measures and contractual requirements to ensure that products are not diverted to an improper end-use, or otherwise warehoused or disposed abroad. A general policy of denial would serve the purpose only of allowing non-U.S. producers -- who are not subject to U.S. regulatory jurisdiction or standards of material accountability -- to supply commercial charges to Libya. Such a measure clearly would

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1 See http://www.umsa.doegov/nr-20/nci/projects.shtml
be inconsistent with the objective of ensuring that access to well perforators be limited only to legitimate Libyan oil-producing operations.

Finally, the denial policy for 1C992 items is inconsistent with the notion that U.S. companies should be actively involved in the Libyan energy sector. Baker Hughes believes there is a large market for energy services in Libya, which cannot be effectuated without the use of perforating charges. The only practical effect of a policy of denying 1C992 applications would be to prevent U.S. manufacturers of commercial charges from participating in the Libyan market.

Baker Hughes strongly urges BIS to reconsider its policy of denial on 1C992 products and to institute a case-by-case licensing framework that would allow U.S. producers to participate in the re-emerging Libya market.

Sincerely,

J. Daniel Chapman
Dear Ms. Quarterman:

Attached are AeA’s comments in response to the April 29 Federal Register notice regarding Interim Regulation on Revision of Export and Reexport Restrictions on Libya.

(See attached file: AeA Libya FINAL comments June 04.pdf)

Sincerely,

Ann Marie Treglia
Director, International Trade Regulation
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annmarie_treglia@aeanet.org
www.aeanet.org
June 1, 2004

Ms. Sheila Quarterman,
Regulatory Policy Division,
Bureau of Industry and Security
Department of Commerce
14th and Pennsylvania Ave. NW,
PO Box 273,
Washington, DC 20044

RE: Docket No. 040422128-4128-01

Restrictions on Export and Reexport Restrictions on Libya

Dear Ms. Quarterman:

AeA, the largest U.S. high tech trade association, welcomes the opportunity to provide comments on the Interim Rule issued April 29, 2004, in the Federal Register dealing with the partial relaxation of the Libyan embargo.

AeA has long opposed unilateral U.S. export controls, especially in cases where equivalent products and technology are freely available from uncontrolled sources, as is the case with Libya. The embargo has represented an unnecessary impediment to AeA members' exports at a time when many countries including close U.S. allies and Wassenaar members have actively pursued business opportunities in that country.

While recognizing that the present Rule represents an important step forward, AeA urges that export controls on Libya be normalized as soon as possible. The retention of validated licensing requirements for AT-based controls retains a unilateral approach to controls, and maintains the delays, uncertainty and conditioning typical of a validated license review. Items subject to these controls continue to be available from Wassenaar countries and other sources and do not, by definition, represent a national security or proliferation risk. In addition, when entering the Libyan market U.S. companies are at a competitive disadvantage vis-à-vis their foreign competitors since they are required to obtain validated licenses for low-level items subject to AT-based controls.
AeA members would also like to raise the issue of the blanket prohibition on service, upgrade and use of items already in Libya, consistent with General Prohibition 10 of the EAR. Over the period of the embargo, it is inevitable that Libyan end-users acquired U.S.-origin equipment, systems, parts, or software from resellers around the world, particularly in the case of strategically useless or long decontrolled items. Some of these end-users may not have even been aware of the U.S. jurisdiction of the items they acquired, such as U.S.-origin software in computer systems produced outside the United States and carrying non-U.S. brand names. In other instances, end-users may have incorrectly assumed that non-U.S. equipment resellers had complied with the U.S. deminimis rules.

AeA feels that service, upgrade and use of low-level items should be permitted regardless of their origin, allowing export enforcement resources to be directed to items of strategic significance. This would remove the uncertainty associated with dealing with products where export authorization may be impossible to definitively prove. The precedent for this approach was set with certain exports to Eastern Europe after the collapse of the Soviet Bloc (see, for example, 55 FR 26652, June 29, 1990). The logic and importance of such a provision holds true today, and should be applied to Libya, Iraq and other countries where the basis for controls has fundamentally changed.

The above-mentioned objective can be achieved by providing an exemption to General Prohibition 10 for items controlled unilaterally by the United States for AT-reasons only. Those controlled specifically for national security or proliferation purposes would remain subject to the Prohibition.

We would again wish to extend our thanks to the Department for the opportunity to provide comments.

Sincerely,

AnnMarie Treglia
Director, International Trade Regulation
The contents of this message may be privileged and confidential. Therefore, if this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author.
June 1, 2004

Ms. Shiela Quarterman
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
P.O. Box 273
Washington, D.C. 20044

Re: Revision of Export and Reexport Restrictions on Libya — Interim Rule,

Dear Ms. Quarterman:

The Industry Coalition on Technology Transfer ("ICOTT") is pleased to respond to the Department’s request for comments on its new export licensing policy for Libya, as set forth in the above-referenced interim rule (the "Interim Rule").

ICOTT is heartened that recent diplomatic developments have enabled the Administration and the Department to begin the process of easing U.S. exports controls on Libya. We urge continued normalization of these controls on a prompt basis. While ICOTT supports the important steps taken in the Interim Rule to relax the embargo on Libya, we do not believe that the Interim Rule goes far enough with respect to certain unilateral U.S. controls. Additionally, to prevent widespread uncertainty and potential paralysis for U.S. exporters, the Department should adopt, on an expedited basis, a clear and reasonable policy with respect to the “installed base” of U.S.-origin items already in Libya. Finally, we offer a suggestion regarding licensing policy for software containing encryption features.

ICOTT urges the Department to eliminate the Interim Rule’s validated licensing requirements for U.S.-origin items unilaterally controlled for anti-terrorism ("AT") reasons. Eliminating unilateral U.S. licensing requirements for AT-controlled items will help assure that the Department’s export control rules for Libya accurately reflect U.S. foreign policy. The Administration has repeatedly stated that the Libyan Government has taken and continues to take extraordinary and concrete steps to renounce terrorism and all its means. The Interim Rule and other foreign policy initiatives by the U.S. Government also appear to reflect a recognition by the United States of a decisive change in Libyan government policy. These pronouncements and efforts strike us as inconsistent with continuing unilateral anti-terrorism export controls on Libya and continuing to classify Libya with countries that have failed to undertake such important anti-terrorism initiatives. Eliminating unilateral AT controls on Libya would promote greater
consistency with U.S. foreign policy as reflected in recent U.S. Government actions and announcements regarding Libya.

Eliminating validated licensing requirements for AT-controlled items exported to Libya is also justified on a number of other grounds. By definition, items subject to unilateral AT-based controls do not pose national security or chemical, biological, nuclear or missile technology proliferation risks. Moreover, unilateral U.S. validated licensing requirements for these items are unlikely to be effective because the items are currently available from a wide range of uncontrolled suppliers, including many suppliers in the Wassenaar countries. As ICOTT has repeatedly pointed out, from the standpoint of effectiveness, unilateral controls are like damming half a river. The builder may take pride in the majesty of the dam but there is every bit as much water downstream as before the first shovelful of earth was turned.

Unilateral validated licensing requirements for AT-controlled items will also place unnecessary competitive burdens on U.S. exporters. Requiring a validated license for these items will inevitably result in additional expense, paperwork, delay and uncertainty for U.S. exporters. These requirements will also place U.S. firms at a significant disadvantage in competing in Libya with suppliers from other countries — including many U.S. allies — that do not impose similar licensing requirements. The U.S. embargo on Libya has already given suppliers from many other countries a significant head start in competing for Libya's business. Retaining unnecessary unilateral licensing requirements for U.S. exports will only widen this competitive disadvantage.

The Department should also take prompt steps to address a serious deficiency in the Interim Rule — namely, its failure to establish clear and reasonable requirements for servicing, upgrading or otherwise dealing with the “installed base” of U.S.-origin items already in Libya. As experience with the former Warsaw Pact countries amply illustrates, U.S. suppliers and contractors entering or re-entering the Libyan market can expect to encounter a considerable installed base of U.S.-origin equipment, parts, components, systems and software, including items that were acquired while the U.S. embargo was in effect. These U.S.-origin items will include computers, telecommunications equipment and other equipment and systems and will likely encompass items that have been incorporated into power grids, oil and gas plants and other industrial facilities and infrastructure. U.S. suppliers and contractors will inevitably be requested to deal with these items and the systems into which they are incorporated. Such potential transactions could encompass repairs, upgrades, sales and transfers, financings, transport, disposal and a range of other dealings.

General Prohibition Ten of the EAR (§ 736.2(b)(10)) prohibits a broad range of commercial transactions if an actor has knowledge that a violation has occurred or is about to occur. The potential application of this broad prohibition to U.S.-origin items already in Libya
has already created considerable confusion among U.S. exporters and contractors, particularly those who may be requested to repair, upgrade or otherwise deal with these items or the systems in which they are incorporated. Among other things, these firms are unclear about how to deal with U.S.-origin items for which it may be impossible to demonstrate the existence of a prior export authorization. Additionally, applying this prohibition to low-level items appears inconsistent with the overall easing of U.S. export controls on Libya. These uncertainties threaten to place U.S. firms at a further disadvantage in competing with foreign suppliers for Libya’s business. If not addressed promptly, they also have the potential to paralyze a significant portion of U.S. export trade and commerce with Libya.

The Department should promptly address these problems and uncertainties by excluding low-level items already in Libya from the ambit of General Prohibition Ten. This exclusion should apply regardless of the manner in which the item entered Libya and should include all transactions, including repair, servicing and upgrades, that would otherwise be permitted under any License Exception applicable to Libya. ICOTT suggests that this exclusion substantially track language in former General License GDK, which addressed the similar issue of repairing or upgrading the installed base of U.S. equipment in the former East Germany during the period before Germany’s reunification. See 55 Fed. Reg. 26652 (June 29, 1990). Specifically, ICOTT recommends that an exclusion for Libya might read as follows --

Notwithstanding General Prohibition Ten (§ 736.2(b)(10)), persons may undertake transactions, including repair, service and upgrade transactions, with respect an item already in Libya, regardless of the circumstances surrounding the original export, provided that the item and any additional items being exported are otherwise eligible for a License Exception applicable to Libya and that, at the conclusion of the transaction, the item would otherwise continue to be eligible for a License Exception applicable to Libya.

With respect to “installed base” items that would be ineligible for this exclusion and thus would require a license, ICOTT recommends that license applications be afforded “favorable consideration, regardless of the circumstances surrounding the original export.”

ICOTT believes that these are appropriate and clear approaches to the “installed base” issue in Libya. They will eliminate a substantial number of potential problems in Libya for U.S. exporters and contractors and are consistent with past Department practice.

Finally, because many “retail” software products contain encryption functionality controlled under ECCN 5D002, such items presumably would be subject to the general denial
policy articulated in the new regulations. At least where such software is part of a broader information technology solution, if not in all cases, the presumption should be of approval.

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The easing of U.S. export controls on Libya will be an important facet of a new U.S. foreign policy toward that country. Recent visitors to Libya report that many Libyans still have a considerable reservoir of goodwill for the United States and its people. Much of this goodwill was a byproduct of the substantial commercial relations between the countries during the pre-embargo period. ICOTT’s member associations and their many U.S. companies look forward to the opportunity to help foster improved relations with Libya as they pursue commerce and trade. To this end, we urge the Department to assure that its new export control requirements for Libya not create unnecessary burdens on trade with Libya or place U.S. exporters at a competitive disadvantage vis-à-vis suppliers from other countries. Revising the Interim Rule to eliminate validated licensing requirements for AT-controlled items and establishing clear and appropriate rules for the dealing with U.S.-origin items already in Libya are reasonable measures that will help advance U.S.-Libyan trade.

Founded in 1983, ICOTT is a group of major trade associations (names listed below) whose thousands of individual member firms export controlled goods and technology from the United States. ICOTT’s principal purposes are to advise U.S. Government officials of industry concerns about export controls, and to inform ICOTT’s member trade associations (and in turn their member firms) about the U.S. Government’s export control activities.

Sincerely,

Eric L. Hirschhorn
Executive Secretary

ICOTT Members

American Association of Exporters and Importers (AAEI)
Semiconductor Equipment and Materials International (SEMI)
Semiconductor Industry Association (SIA)
INDUSTRY COALITION ON TECHNOLOGY TRANSFER

Ms. Shiela Quarterman
June 1, 2004
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cc: Hon. Kenneth Juster
    Hon. John Bolton
    Hon. Peter Lichtenbaum
    Hon. Lincoln Bloomfield
    Hon. Condolezza Rice

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