

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Parts 740, 743, 772, and 774**

[Docket No. 030127020-3020-01]

RIN 0694-AC65

Implementation of the 2002 Wassenaar Arrangement List of Dual-Use Items: Revisions to Categories 2, 3, 4, 5, 6, 7, 8, and 9 of the Commerce Control List, General Software Note, and Reporting Requirements**AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) maintains the Commerce Control List (CCL), which identifies items subject to Department of Commerce export controls. This final rule revises certain entries controlled for national security reasons in Categories 2, 3, 4, 5 Part I (telecommunications), 5 Part II (information security), 6, 7, 8, and 9 to conform with changes in the List of Dual-Use Goods and Technologies maintained and agreed to by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement controls strategic items with the objective of improving regional and international security and stability.

The purpose of this final rule is to make the necessary changes to the Commerce Control List to implement revisions to the Wassenaar List that were agreed upon in the February 2002 meeting (and finalized in May 2002) and to make necessary revisions to reporting requirements, definitions, and the General Technology and Software Notes. The changes that affected microprocessors were published in a separate rule on January 14, 2003 (68 FR 1796).

EFFECTIVE DATE: This rule is effective: March 5, 2003.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Strategic Trade and Foreign Policy Controls, Bureau of Industry and Security, U.S. Department of Commerce at (202) 482-5400.

SUPPLEMENTARY INFORMATION:**Background**

In July 1996, the United States and thirty-two other countries gave final approval to the establishment of a new multilateral export control arrangement,

called the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement). The Wassenaar Arrangement contributes to regional and international security and stability by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations of such items. Participating states have committed to exchange information on exports of dual-use goods and technologies to non-participating states for the purposes of enhancing transparency and assisting in developing common understandings of the risks associated with the transfers of these items.

This rule makes the following amendments to the list of items ineligible for export or reexport under License Exception GOV, to conform with revisions to the Wassenaar Arrangement's Annex 2 of the List of Dual-Use Goods and Technologies:

- For exports and reexports of commodities and software to the International Atomic Energy Agency (IAEA) and the European Atomic Energy Community (EURATOM), reexports by IAEA and EURATOM for official international safeguard use:

(1) The following items are removed from the list of ineligible commodities and software: 1C012 (because commodities classified as 1C012 are under Department of State jurisdiction and must comply with the International Traffic in Arms Regulations (ITAR)), 9A011 (because commodities classified as 9A011 are under Department of State jurisdiction and must comply with the ITAR), 9D002 (because the ineligible software is under State Department jurisdiction as it pertains to production software for 9A011, which is under Department of State jurisdiction and must comply with ITAR), and 9D004 (because this software has been removed from Annex 2 of the Wassenaar Arrangement List of Dual-Use Goods and Technologies List);

(2) The following items are revised within the list of ineligible commodities and software:

(a) Narrowed the scope of 4D001 to only include software specially designed for the development or production of digital computers controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS;

(b) Added Note that applies to paragraph 740.11(a)(2)(iii) that reads as follows: "Nationals of countries in Country Group E:1 may not physically or computationally access computers that have been enhanced by "electronic

assemblies", which have been exported or reexported under License Exception GOV and have been used to enhance such computers by aggregation of "computing elements" so that the CTP of the aggregation exceeds the CTP parameter set forth in ECCN 4A003.b. of the Commerce Control List in Supplement No. 1 to part 774 of the EAR, without prior authorization from the Bureau of Industry and Security."

(c) Revised references to 5A001.b.4 to read 5A001.b.5, because the paragraph was redesignated in 5A001;

(d) Clarified the scope of 5D001.a; and

(e) Clarified the scope of 9D001 to harmonize with those items removed from the list of ineligible items.

(3) Added processing equipment, specially designed for real time application bottom or bay cable systems controlled by 6A001.a.2.f to the list of ineligible commodities.

- For exports or reexports of items for official use within national territory by agencies of cooperating governments, and exports and reexports of items for diplomatic and consular missions of a cooperating government located in any country in Country Group B:

(1) The following items are removed from the list of ineligible commodities and software: 1C012 (because commodities classified as 1C012 are under Department of State jurisdiction and must comply with the International Traffic in Arms Regulations (ITAR)), 9A011 (because commodities classified as 9A011 are under Department of State jurisdiction and must comply with the ITAR), 9D002 (because the ineligible software is under State Department jurisdiction as it pertains to production software for 9A011, which is under Department of State jurisdiction and must comply with ITAR), and 9D004 (because this software has been removed from Annex 2 of the Wassenaar Arrangement List of Dual-Use Goods and Technologies List);

(2) The following items are revised within the list of ineligible commodities and software:

(a) Narrowed the scope of 4D001 to only include software specially designed for the development or production of digital computers controlled by 4A003.b and having a CTP exceeding 190,000 MTOPS;

(b) Revised references to 5A001.b.4 to read 5A001.b.5, because the paragraph was redesignated in 5A001;

(c) Clarified the scope of 5D001.a;

(d) Clarified the scope of 9D001 to harmonize with those items removed from the list of ineligible items;

(e) Narrowed the scope of 1E001 by removing 1C012; and