

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Parts 744 and 772**

[Docket No. 020912210-2210-01]

RIN 0694-AC60

Imposition and Expansion of Controls on Designated Terrorists**AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Interim final rule with request for comments.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by imposing a license requirement on the export and reexport of any item subject to the EAR by a U.S. person or non-U.S. person to persons designated in or pursuant to Executive Order 13224 of September 23, 2001. In response to grave acts of terrorism and threats of terrorism, Executive Order 13224 blocks the property and interests in property of persons listed in an Annex to the order and persons designated by the Secretary of State or the Secretary of the Treasury pursuant to criteria set forth in the order. Executive Order 13224 also prohibits U.S. persons from engaging in any transactions with such blocked persons. The Department of the Treasury's Office of Foreign Assets Control (OFAC) announces the names of persons designated pursuant to Executive Order 13224 in the **Federal Register** and includes such persons in a listing of persons subject to various sanctions programs administered by OFAC. The Department of State also announces the names of foreign persons designated pursuant to Executive Order 13224 in the **Federal Register**. All persons designated in or pursuant to Executive Order 13224 are identified by the bracketed initials [SDGT] in the Department of Treasury listing and are also known as Specially Designated Global Terrorists (SDGTs). This rule also amends the EAR by expanding reexport controls on Specially Designated Terrorists (SDTs) and Foreign Terrorist Organizations (FTOs). OFAC also includes SDTs and FTOs in the Department of Treasury listing and identifies them by the bracketed initials [SDT] and [FTO], respectively.

DATES: This rule is effective June 6, 2003.

Comment Dates: Comments on this rule must be received on or before July 21, 2003.

ADDRESSES: Written comments on this rule should be sent to Sheila Quartermann, Regulatory Policy Division,

Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044, or to E-mail address squarterm@bis.doc.gov.

FOR FURTHER INFORMATION CONTACT: Joan Roberts, Director, Foreign Policy Controls Division, Office of Strategic Trade and Foreign Policy Controls, Bureau of Industry and Security, Department of Commerce. Telephone: (202) 482-0171, E-mail jroberts@bis.doc.gov.

SUPPLEMENTARY INFORMATION:**Background***Imposition of Controls on Specially Designated Global Terrorists (SDGTs)*

President Bush issued Executive Order 13224 (E.O. 13224) (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) on September 23, 2001, in response to grave acts of terrorism and threats of terrorism. On September 28, 2001, the United Nations Security Council (UNSC) adopted Resolution 1373, requiring all member states, among other things, to refrain from providing any form of support to persons involved in terrorist acts and to prohibit their nationals from making economic resources available to persons who commit, attempt to commit, facilitate or participate in the commission of terrorist acts. In addition, on January 28, 2002, the UNSC adopted Resolution 1390, which requires all member states to freeze funds and other financial assets or economic resources of Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to UNSC Resolutions 1267 (October 15, 1999) and 1333 (December 19, 2000). UNSC Resolution 1455 (January 17, 2003) continued and improved the measures provided in UNSC Resolution 1390. The Bureau of Industry and Security (BIS) is taking action consistent with E.O. 13224 and UNSC Resolutions 1267, 1390, 1452 (December 20, 2002), and 1455, as well as 1373, by imposing a license requirement on all exports and reexports to persons designated in or pursuant to E.O. 13224. Persons designated pursuant to criteria set forth in E.O. 13224 by the Secretary of State or the Secretary of the Treasury are announced in the **Federal Register** and listed in Appendix A to 31 CFR chapter V, which lists persons subject to various sanctions programs administered by OFAC ("Blocked Persons list"). Persons designated in or pursuant to E.O. 13224 are identified in Appendix A by the

bracketed initials [SDGT] and are also known as Specially Designated Global Terrorists (SDGTs). Provisions that implement BIS controls on SDGTs are included in new section 744.12 of the EAR.

Expansion of Reexport Controls on SDTs and FTOs

Specially Designated Terrorists (SDTs) are designated in or pursuant to Executive Order 12947 issued on January 23, 1995 (Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process), as amended by Executive Order 13099 of August 20, 1998. Foreign Terrorist Organizations (FTOs) are designated pursuant to the 1996 Anti-Terrorism and Effective Death Penalty Act (Pub. L. 104-132). SDTs and FTOs are included on the Blocked Persons list maintained by OFAC in Appendix A to 31 CFR chapter V and identified by the bracketed initials [SDT] and [FTO], respectively.

On January 8, 1999, BIS issued a rule imposing foreign policy controls on exports and certain reexports of items subject to the EAR to individuals and groups designated as SDTs and groups designated as FTOs. The January 1999 rule imposed a license requirement on the following exports and reexports to a designated SDT or FTO:

- (1) The export from the United States of any item subject to the EAR;
- (2) The export or reexport by a U.S. person, wherever located, of any item subject to the EAR; and
- (3) The export from abroad or reexport by a non-U.S. person of any item subject to the EAR on the Commerce Control List.

The January 1999 rule did not impose a license requirement on the export from abroad or reexport by a non-U.S. person of EAR99 items. The action BIS is now taking, effective June 6, 2003, expands current controls by requiring a license for the export from abroad or reexport to a designated SDT or FTO by a non-U.S. person of any item subject to the EAR, whether such item is on the Commerce Control List or is classified as EAR99. Provisions that expand BIS controls on SDTs and FTOs are found in revised sections 744.13 and 744.14 of the EAR, respectively.

Note that certain persons designated in or pursuant to E.O. 13224 also have been designated as SDTs or FTOs or both, and are appropriately identified by more than one of the bracketed acronyms in Appendix A to 31 CFR chapter V. As such, section 744.1 is also revised to add a new subsection (a)(2), which provides that when controls set forth under more than one section of