

§764.1**INTRODUCTION**

In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. This part specifies conduct that constitutes a violation of the Export Administration Act (EAA) and/or the Export Administration Regulations (EAR) and the sanctions that may be imposed for such violations. Antiboycott violations are described in part 760 of the EAR, and the violations and sanctions specified in part 764 also apply to conduct relating to part 760, unless otherwise stated. This part describes administrative sanctions that may be imposed by the Bureau of Industry and Security (BIS). This part also describes criminal sanctions that may be imposed by a United States court and other sanctions that are neither administrative nor criminal. Information is provided on how to report and disclose violations. Finally, this part identifies protective administrative measures that BIS may take in the exercise of its regulatory authority.

§764.2**VIOLATIONS*****(a) Engaging in prohibited conduct***

No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.

(b) Causing, aiding, or abetting a violation

No person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder.

(c) Solicitation and attempt

No person may solicit or attempt a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(d) Conspiracy

No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder.

(e) Acting with knowledge of a violation

No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any item exported or to be exported from the United States, or that is otherwise subject to the EAR, with knowledge that a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item.

(f) Possession with intent to export illegally

No person may possess any item controlled for national security or foreign policy reasons under sections 5 or 6 of the EAA:

- (1)** With intent to export or reexport such item in violation of the EAA, the EAR, or any order, license or authorization issued thereunder; or
- (2)** With knowledge or reason to believe that the item would be so exported or reexported.

(g) Misrepresentation and concealment of facts

- (1)** No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, either directly to BIS, the United States Customs Service, or an official of any other United States agency, or

indirectly through any other person:

(i) In the course of an investigation or other action subject to the EAR; or

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document or restrictive trade practice or boycott request report, as defined in §760.6 of the EAR; or

(iii) For the purpose of or in connection with effecting an export, reexport or other activity subject to the EAR.

(2) All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify BIS and any other relevant agency, in writing, of any change of any material fact or intention from that previously represented, stated, or certified, immediately upon receipt of any information that would lead a reasonably prudent person to know that a change of material fact or intention has occurred or may occur in the future.

(h) Evasion

No person may engage in any transaction or take any other action with intent to evade the provisions of the EAA, the EAR, or any order, license or authorization issued thereunder.

(i) Failure to comply with reporting, recordkeeping requirements

No person may fail or refuse to comply with any reporting or recordkeeping requirement of the EAR or of any order, license or authorization issued thereunder.

(j) License alteration

Except as specifically authorized in the EAR or in writing by BIS, no person may alter any license,

authorization, export control document, or order issued under the EAR.

(k) Acting contrary to the terms of a denial order

No person may take any action that is prohibited by a denial order. See §764.3(a)(2) of this part.

§764.3

SANCTIONS

(a) Administrative¹

Violations of the EAA, the EAR, or any order, license or authorization issued thereunder are subject to the administrative sanctions described in this section and to any other liability, sanction, or penalty available under law. The protective administrative measures that are described in §764.6 of this part are distinct from administrative sanctions.

(1) Civil penalty.

(i) A civil penalty not to exceed \$10,000 may be imposed for each violation, except that a civil penalty not to exceed \$100,000 may be imposed for each violation involving national security controls imposed under section 5 of the EAA.

(ii) The payment of any civil penalty may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted or to be granted to the person

¹ In the event that any part of the EAR is not under the authority of the EAA, sanctions shall be limited to those provided for by such other authority, but the provisions of this part and of part 766 of the EAR shall apply insofar as not inconsistent with that other authority.

upon whom such penalty is imposed.

(iii) The payment of any civil penalty may be deferred or suspended in whole or in part during any probation period that may be imposed. Such deferral or suspension shall not bar the collection of the penalty if the conditions of the deferral, suspension, or probation are not fulfilled.

(2) Denial of export privileges. An order may be issued that restricts the ability of the named persons to engage in export and reexport transactions involving items subject to the EAR, or that restricts access by named persons to items subject to the EAR. An order denying export privileges may be imposed either as a sanction for a violation specified in this part or as a protective administrative measure described in §764.6(c) or (d) of this part. An order denying export privileges may suspend or revoke any or all outstanding licenses issued under the EAR to a person named in the denial order or in which such person has an interest, may deny or restrict exports and reexports by or to such person of any item subject to the EAR, and may restrict dealings in which that person may benefit from any export or reexport of such items. The standard terms of a denial order are set forth in Supplement No. 1 to this part. A non-standard denial order, narrower in scope, may be issued. Authorization to engage in actions otherwise prohibited by a denial order may be given by the Office of Exporter Services, in consultation with the Office of Export Enforcement, following application by a person named in the denial order or by a person seeking permission to deal with a named person.

(3) Exclusion from practice. Any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity for any license application or other matter before BIS may be excluded by order from any or all such activities before BIS.

(b) Criminal²

(1) General. Except as provided in paragraph (b)(2) of this section, whoever knowingly violates or conspires to or attempts to violate the EAA, EAR, or any order or license issued thereunder, shall be fined not more than five times the value of the exports or reexports involved or \$50,000, whichever is greater, or imprisoned not more than five years, or both.

(2) Willful violations.

(i) Whoever willfully violates or conspires to or attempts to violate any provision of the EAA, the EAR, or any order or license issued thereunder, with knowledge that the exports involved will be used for the benefit of, or that the destination or intended destination of items involved is, any controlled country or any country to which exports or reexports are controlled for foreign policy purposes, except in the case of an individual, shall be fined not more than five times the value of the export or reexport involved or \$1,000,000, whichever is greater; and, in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than 10 years, or both.

(ii) Any person who is issued a license under the EAA or the EAR for the export or reexport of any items to a controlled country and who, with knowledge that such export or reexport is being used by such controlled country for military or intelligence gathering purposes contrary to the

² In the event that any part of the EAR is not under the authority of the EAA, sanctions shall be limited to those provided for by such other authority or by 18 U.S.C. 3571, a criminal code provision that establishes a maximum criminal fine for a felony that is the greater of the amount provided by the statute that was violated, or an amount not more than \$500,000 for an organization. The Federal Sentencing Guidelines found in §2M5.1 of Appendix 4 to Title 18 of the United States Code apply, to the extent followed by the court, to sentencing for convictions for violating the EAA.

conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense, except in the case of an individual, shall be fined not more than five times the value of the exports or reexports involved or \$1,000,000, whichever is greater; and in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than five years or both.

(iii) Any person who possesses any item with the intent to export or reexport such item in violation of an export control imposed under sections 5 or 6 of the EAA, the EAR, or any order or license issued thereunder, or knowing or having reason to believe that the item would be so exported or reexported, shall, in the case of a violation of an export control imposed under section 5 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), be subject to the penalties set forth in paragraph (b)(2)(i) of this section and shall in the case of a violation of an export control imposed under section 6 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), be subject to the penalties set forth in paragraph (b)(1) of this section.

(iv) Any person who takes any action with intent to evade the provisions of the EAA, the EAR, or any order or license issued thereunder, shall be subject to the penalties set forth in paragraph (b)(1) of this section, except that in the case of an evasion of an export control imposed under sections 5 or 6 of the EAA (or the EAR, or any order or license issued thereunder with respect to such control), such person shall be subject to the penalties set forth in paragraph (b)(2)(i) of this section.

(3) Other criminal sanctions. Conduct that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, or that occurs in connection with such a violation, may also be prosecuted under other provisions of law, including 18 U.S.C. 371 (conspiracy), 18 U.S.C. 1001 (false statements), 18 U.S.C. 1341,

1343, and 1346 (mail and wire fraud), and 18 U.S.C. 1956 and 1957 (money laundering).

(c) Other sanctions

Conduct that violates the EAA, the EAR, or any order, license or authorization issued thereunder, and other conduct specified in the EAA may be subject to sanctions or other measures in addition to criminal and administrative sanctions under the EAA or EAR. These include, but are not limited to, the following:

(1) Statutory sanctions. Statutorily-mandated sanctions may be imposed on account of specified conduct related to weapons proliferation. Such statutory sanctions are not civil or criminal penalties, but restrict imports and procurement (See section 11A of the EAA, Multilateral Export Control Violations, and section 11C of the EAA, Chemical and Biological Weapons Proliferation), or restrict export licenses (See section 11B of the EAA, Missile Proliferation Violations, and the Iran-Iraq Arms Non-Proliferation Act of 1992).

(2) Other sanctions and measures.

(i) *Seizure and forfeiture.* Items that have been, are being, or are intended to be, exported or shipped from or taken out of the United States in violation of the EAA, the EAR, or any order, license or authorization issued thereunder, are subject to being seized and detained as are the vessels, vehicles, and aircraft carrying such items. Seized items are subject to forfeiture. (50 U.S.C. app. 2411(g); 22 U.S.C. 401.)

(ii) *Cross-debarment.*

(A) The Department of State may deny licenses or approvals for the export or reexport of defense articles and defense services controlled under the Arms Export Control Act to persons indicted or convicted of specified criminal offenses, including violations of the EAA, or to

persons denied export privileges by BIS or another agency. (22 CFR 126.7(a) and 127.11(a).)

(B) The Department of Defense, among other agencies, may suspend the right of any person to contract with the United States Government based on export control violations. (Federal Acquisition Regulations §9.407-2.)

§764.4

REPORTING OF VIOLATIONS

(a) Where to report

If a person learns that an export control violation of the EAR has occurred or may occur, that person may notify:

Office of Export Enforcement
 Bureau of Industry and Security
 U.S. Department of Commerce
 14th Street and Constitution Avenue, N.W.
 Room H-4520
 Washington, D.C. 20230
 Tel: (202) 482-1208
 Facsimile: (202) 482-0964

or, for violations of part 760 of the EAR:

Office of Antiboycott Compliance
 Bureau of Industry and Security
 U.S. Department of Commerce
 14th Street and Constitution Avenue, N.W.
 Room H-6099C
 Washington, D.C. 20230
 Tel: (202) 482-2381
 Facsimile: (202) 482-0913

(b) Failure to report violations

Failure to report potential violations may result in the unwarranted issuance of licenses or exports without the required licenses to the detriment of the interests of the United States.

(c) Reporting requirement distinguished

The reporting provisions in paragraph (a) of this section are not "reporting requirements" within the meaning of §764.2(i) of this part.

§764.5

VOLUNTARY SELF-DISCLOSURE

(a) General policy

BIS strongly encourages disclosure to OEE if you believe that you may have violated the EAR, or any order, license or authorization issued thereunder. Voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought by OEE.

(b) Limitations

(1) The provisions of this section do not apply to disclosures of violations relating to part 760 of the EAR.

(2) The provisions of this section apply only when information is provided to OEE for its review in determining whether to take administrative action under part 766 of the EAR for violations of the export control provisions of the EAR.

(3) The provisions of this section apply only when information is received by OEE for review prior to the time that OEE, or any other agency of the United States Government, has learned the same or substantially similar information from another source and has commenced an investigation or inquiry in connection with that information.

(4) While voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought by OEE, it is a factor that is considered together with all other factors in a case. The weight given to voluntary

self-disclosure is solely within the discretion of OEE, and the mitigating effect of voluntary self-disclosure may be outweighed by aggravating factors. Voluntary self-disclosure does not prevent transactions from being referred to the Department of Justice for criminal prosecution. In such a case, OEE would notify the Department of Justice of the voluntary self-disclosure, but the consideration of that factor is within the discretion of the Department of Justice.

(5) A firm will not be deemed to have made a disclosure under this section unless the individual making the disclosure did so with the full knowledge and authorization of the firm's senior management.

(6) The provisions of this section do not, nor should they be relied on to, create, confer, or grant any rights, benefits, privileges, or protection enforceable at law or in equity by any person, business, or entity in any civil, criminal, administrative, or other matter.

(c) Information to be provided

(1) General. Any person wanting to disclose information that constitutes a voluntary self-disclosure should, in the manner outlined below, initially notify OEE as soon as possible after violations are discovered, and then conduct a thorough review of all export-related transactions where violations are suspected.

(2) Initial notification.

(i) The initial notification should be in writing and be sent to one of the addresses in §764.5(c)(7) of this part. The notification should include the name of the person making the disclosure and a brief description of the suspected violations. The notification should describe the general nature and extent of the violations. If the person making the disclosure subsequently completes the narrative account required by §764.5(c)(3) of this part, the disclosure will be deemed to have been made on the date of the initial notification for purposes of §764.5(b)(3) of this part.

(ii) OEE recognizes that there may be situations where it will not be practical to make an initial notification in writing. For example, written notification may not be practical if a shipment leaves the United States without the required license, yet there is still an opportunity to prevent acquisition of the items by unauthorized persons. In such situations, OEE should be contacted promptly at one of the offices listed in §764.5(c)(7) of this part.

(3) Narrative account. After the initial notification, a thorough review should be conducted of all export-related transactions where possible violations are suspected. OEE recommends that the review cover a period of five years prior to the date of the initial notification. If your review goes back less than five years, you risk failing to discover violations that may later become the subject of an investigation. Any violations not voluntarily disclosed do not receive consideration under this section. However, the failure to make such disclosures will not be treated as a separate violation unless some other section of the EAR or other provision of law requires disclosure. Upon completion of the review, OEE should be furnished with a narrative account that sufficiently describes the suspected violations so that their nature and gravity can be assessed. The narrative account should also describe the nature of the review conducted and measures that may have been taken to minimize

the likelihood that violations will occur in the future. The narrative account should include:

(i) The kind of violation involved, for example a shipment without the required license or dealing with a party denied export privileges;

(ii) An explanation of when and how the violations occurred;

(iii) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violations;

(iv) License numbers;

(v) The description, quantity, value in U.S. dollars and ECCN or other classification of the items involved; and

(vi) A description of any mitigating circumstances.

(4) Supporting documentation.

(i) The narrative account should be accompanied by copies of documents that explain and support it, including:

(A) Licensing documents such as licenses, license applications, import certificates and end-user statements;

(B) Shipping documents such as Shipper's Export Declarations, air waybills and bills of lading; and

(C) Other documents such as letters, facsimiles, telexes and other evidence of written or oral communications, internal memoranda, purchase orders, invoices, letters of credit and brochures.

(ii) Any relevant documents not attached to the narrative account must be retained by the person making the disclosure until OEE requests them, or

until a final decision on the disclosed information has been made. After a final decision, the documents should be maintained in accordance with the recordkeeping rules in part 762 of the EAR.

(5) Certification. A certification must be submitted stating that all of the representations made in connection with the voluntary self-disclosure are true and correct to the best of that person's knowledge and belief. Certifications made by a corporation or other organization should be signed by an official of the corporation or other organization with the authority to do so. Section 764.2(g) of this part, relating to false or misleading representations, applies in connection with the disclosure of information under this section.

(6) Oral presentations. OEE believes that oral presentations are generally not necessary to augment the written narrative account and supporting documentation. If the person making the disclosure believes otherwise, a request for a meeting should be included with the disclosure.

(7) Where to make voluntary self-disclosures. The information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure may be submitted to:

Office of Export Enforcement
 Director, Intelligence Division
 U.S. Department of Commerce
 P.O. Box 70
 Washington, D.C. 20044

Office of Export Enforcement
 Director, Intelligence Division
 U.S. Department of Commerce
 14th Street and Constitution Avenue, N.W.
 Room H-4520
 Washington, D.C. 20230
 Tel: (202) 482-1208
 Facsimile: (202) 482-0964

or to any of the following field offices:

Special Agent in Charge
 Boston Field Office
 Office of Export Enforcement
 New Boston Federal Building
 10 Causeway Street, Room 350
 Boston, Massachusetts 02222
 Tel: (617) 565-6030
 Facsimile: (617) 565-6039

Special Agent in Charge
 Chicago Field Office
 Office of Export Enforcement
 2400 East Devon, Suite 300
 Des Plaines, Illinois 60018
 Tel: (312) 353-6640
 Facsimile: (312) 353-8008

Special Agent in Charge
 Dallas Field Office
 Office of Export Enforcement
 525 Griffin Street, Room 622
 Dallas, Texas 75202
 Tel: (214) 767-9294
 Facsimile: (214) 767-9299

Special Agent in Charge
 Los Angeles Field Office
 Office of Export Enforcement
 2601 Main Street, Suite 310
 Irvine, California 92714-6299
 Tel: (949) 251-9001
 Facsimile: (949) 251-9103

Special Agent in Charge
 Miami Field Office
 Office of Export Enforcement
 200 East Las Olas Boulevard, Suite 2060
 Fort Lauderdale, Florida 33301
 Tel: (954) 356-7540
 Facsimile: (954) 356-7549

Special Agent in Charge
 New York Field Office
 Office of Export Enforcement
 1200 South Avenue, Suite 104
 Staten Island, New York 10314
 Tel: (718) 370-0070
 Facsimile: (718) 370-0826

Special Agent in Charge
 San Jose Field Office
 Office of Export Enforcement
 96 North 3rd Street, Suite 250
 San Jose, California 95112-5572
 Tel: (408) 291-4204
 Facsimile: (408) 291-4320

Special Agent in Charge
 Washington, D.C. Field Office
 Office of Export Enforcement
 381 Elden Street, Suite 1125
 Herndon, Virginia 20170
 Tel: (703) 487-9300
 Facsimile: (703) 487-4955

(d) Action by the Office of Export Enforcement

After OEE has been provided with the required narrative and supporting documentation, it will acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever additional action, including further investigation, it deems appropriate. As quickly as the facts and circumstances of a given case permit, OEE may take any of the following actions:

- (1)** Inform the person making the disclosure that, based on the facts disclosed, it plans to take no action;
- (2)** Issue a warning letter;
- (3)** Issue a proposed charging letter pursuant to §766.18 of the EAR and attempt to settle the matter;

(4) Issue a charging letter pursuant to §766.3 of the EAR if a settlement is not reached; and/or

(5) Refer the matter to the Department of Justice for criminal prosecution.

(e) Criteria

For purposes of determining what administrative action to take and what sanctions, if any, to seek, the fact that a voluntary self-disclosure has been made will be a mitigating factor. OEE will take that factor into account along with other mitigating and aggravating factors when determining what, if any, administrative sanctions should be imposed. The factors that OEE will consider are in its sole discretion, but may include:

(1) The extent to which the purpose of the control is undermined by the transaction;

(2) Whether the transaction would have been authorized had proper application been made;

(3) The quantity and value of the items involved;

(4) Why the violations occurred. For example, OEE may consider whether the violations were intentional or inadvertent; the degree to which the person responsible for the violation making the disclosure was familiar with the EAR; and whether the violator has been the subject of prior administrative or criminal action under the EAA or the EAR;

(5) Whether, as a result of the information provided, OEE is able to prevent any items exported illegally from reaching unauthorized persons or destinations;

(6) The degree of cooperation with the ensuing investigation;

(7) Whether the person has instituted or improved an internal compliance program to reduce the likelihood of future violations.

(f) Treatment of unlawfully exported items after voluntary self-disclosure

(1) Any person taking certain actions with knowledge that a violation of the EAA or the EAR has occurred has violated §764.2(e) of this part. Any person who has made a voluntary self-disclosure knows that a violation may have occurred. Therefore, at the time that a voluntary self-disclosure is made, the person making the disclosure may request permission from BIS to engage in the activities described in §764.2(e) of this part that would otherwise be prohibited. If the request is granted by the Office of Exporter Services in consultation with OEE, future activities with respect to those items that would otherwise violate §764.2(e) of this part will not constitute violations. However, even if permission is granted, the person making the voluntary self-disclosure is not absolved from liability for any violations disclosed nor relieved of the obligation to obtain any required reexport authorizations.

(2) A license to reexport items that are the subject of a voluntary self-disclosure, and that have been exported contrary to the provisions of the EAA or the EAR, may be requested from BIS in accordance with the provisions of part 748 of the EAR. If the applicant for reexport authorization knows that the items are the subject of a voluntary self-disclosure, the request should state that a voluntary self-disclosure was made in connection with the export of the commodities for which reexport authorization is sought.

§764.6

PROTECTIVE ADMINISTRATIVE MEASURES

(a) License Exception limitation

As provided in §740.2(b) of the EAR, all License Exceptions are subject to revision, suspension, or revocation.

(b) Revocation or suspension of licenses

As provided in §750.8 of the EAR, all licenses are subject to revision, suspension, or revocation.

(c) Temporary denial orders

BIS may, in accordance with §766.24 of the EAR, issue an order temporarily denying export privileges when such an order is necessary in the

public interest to prevent the occurrence of an imminent violation.

(d) Denial based on criminal conviction

BIS may, in accordance with §766.25 of the EAR, issue an order denying the export privileges of any person who has been convicted of an offense specified in §11(h) of the EAA.

STANDARD TERMS OF ORDERS DENYING EXPORT PRIVILEGES

(a) General

(1) Orders denying export privileges may be "standard" or "non-standard." This Supplement specifies terms of the standard order denying export privilege with respect to denial orders issued after March 25, 1996. Denial orders issued prior to March 25, 1996 are to be construed, insofar as possible, as having the same scope and effect as the standard denial order. All denial orders are published in the *Federal Register*. The failure by any person to comply with any denial order is a violation of the Export Administration Regulations (EAR) (*see* §764.2(k) of this part). BIS provides lists of denied persons on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office.

(2) Each denial order shall include:

(i) The name and address of any denied persons and any related persons subject to the denial order;

(ii) The basis for the denial order, such as final decision following charges of violation, settlement agreement, section 11(h) of the EAA, or temporary denial order request;

(iii) The period of denial, the effective date of the order, whether and for how long any portion of the denial of export privileges is suspended, and any conditions of probation; and

(iv) Whether any or all outstanding licenses issued under the EAR to the person(s) named in the denial order or in which such person(s) has an interest, are suspended or revoked.

(b) Standard Denial Order Terms

The following are the standard terms for

imposing periods of export denial. Some orders also contain other terms, such as those that impose civil penalties, or that suspend all or part of the penalties or period of denial.

"IT IS THEREFORE ORDERED:

FIRST, that [the denied person(s)] may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Export Administration Regulations (EAR), or in any other activity subject to the EAR, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the EAR;
- B. Take any action that facilitates the

acquisition or attempted acquisition by a denied person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a denied person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the EAR that has been exported from the United States;
- D. Obtain from the denied person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a denied person, or service any item, of

whatever origin, that is owned, possessed or controlled by a denied person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in §766.23 of the EAR, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this order.

FOURTH, that this order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

This order, which constitutes the final agency action in this matter, is effective [DATE]."