Part V

Department of Commerce

Bureau of Export Administration

Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations; Final Rule
DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 734, 736, 738, 740, 742, 745, 748, 758, 772 and 774

[Docket No. 990416098–9098–01]

RIN 0694–AB67

Implementation of the Chemical Weapons Convention; Revisions to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: On April 25, 1997, the United States ratified the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention). The CWC identifies Schedule 1, Schedule 2 and Schedule 3 chemicals subject to certain trade restrictions. This interim rule implements the provisions of the Convention that affect exports and reexports of Schedule 1 chemicals and exports of Schedule 2 and Schedule 3 chemicals to countries that are not party to the Convention (non-States Parties) by amending the Export Administration Regulations (EAR). Specifically, this rule adds a requirement for U.S. persons to obtain an End-Use Certificate for exports of certain chemicals to those countries that are not party to the Convention, and submit a copy of that certificate to the Department of Commerce. This rule also adds licensing requirements for technology for the production of certain Schedule 2 and Schedule 3 chemicals subject to the Export Administration Regulations, and creates an advance notification and annual report requirement for all exports of Schedule 1 chemicals. To facilitate verification measures by the Organization for the Prohibition of Chemical Weapons (OPCW), this rule modifies an existing License Exception to allow the release of technology identified under new ECCN 1C350 and new ECCN 1C355, and Schedule 2 and 3 chemicals identified under ECCN 1E355.

DATES: This rule is effective May 18, 1999. Comments on this rule must be received on or before June 17, 1999. Annual reports for exports of Schedule 1 chemicals during calendar years 1997 and 1998 must be submitted by the Department of Commerce by August 16, 1999.

ADRESSES: Written comments should be sent to Nancy Crowe, Regulatory Policy Division, Bureau of Export Administration, Room 2705, 14th Street and Pennsylvania Ave., NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Nancy Crowe, Regulatory Policy Division, Bureau of Export Administration, at (202) 482–2440.

SUPPLEMENTARY INFORMATION:

Background

As a party to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), the United States must, among other obligations, subject certain toxic chemicals and their precursors listed in the Convention to verification measures and control. This rule implements certain export-related provisions of the Convention. Regulations to implement other provisions of the Convention related to data declarations and inspections will be published by the Department of Commerce in the Federal Register at a later date.

The CWC-related toxic chemicals and their precursors are contained in three lists or “schedules.” CWC Schedule 1 chemicals and precursors are those that have been developed, produced, stockpiled, or used as chemical weapons in the past, or that have high potential for use as chemical weapons, possess lethal or incapacitating toxicity, or may be used as precursors in the production of other Schedule 1 chemicals.

CWC Schedule 2 lists toxic chemicals and precursors that are not produced in large commercial quantities and that possess lethal or incapacitating toxicity that could enable them to be used as chemical weapons, may be used as precursors in one of the chemical reactions at the final stage of formation of a chemical listed in Schedule 1 or Schedule 2, or are important in the production of Schedule 1 or Schedule 2 chemicals.

CWC Schedule 3 lists toxic chemicals that may be produced in large commercial quantities for purposes not prohibited under the Convention and that have been produced, stockpiled, or used as chemical weapons, possess lethal or incapacitating toxicity that could enable them to be used as chemical weapons, or are important in the production of one or more chemicals listed in Schedule 1 or Schedule 2.

The Convention mandates trade restrictions on individual chemicals and families of chemicals. The United States is a participant in the Australia Group (AG), a 30-nation multilateral chemical and biological weapons non-proliferation regime. All AG participants have national export controls on 54 precursor chemicals, some of which are listed on the CWC Schedules, and on chemical-related production equipment. Two Schedule 1 toxins, ricin and saxitoxin, are subject to the EAR, are listed in Export Control Classification Number (ECCN) 1C351 on the Commerce Control List (CCL), and currently require a license for chemical and biological (CB) non-proliferation reasons for export to all destinations except Canada. Three additional Schedule 1 chemicals, O-Ethyl-2-disopropylaminoethyl methyl phosphonite (57856–11–8), Ethylphosphonyl difluoride (753–98–0) and Methylphosphonyl difluoride (676–99–3), are controlled by ECCN 1C350, and currently require a license for CB reasons for export to all destinations except AG-member countries. As a result of this rule, all five Schedule 1 chemicals subject to the EAR will require a license to all destinations, including Canada. All other Schedule 1 chemicals are considered defense articles under U.S. law and, as such, are controlled by the Department of State under the International Traffic in Arms Regulations (ITAR), (22 CFR 120, 121.7).

This rule establishes a new reason for control, “Chemical Weapons Convention”, or CW, in Control Policy—Commerce Control List Based Controls (part 742 of the EAR). New § 742.18, sets forth the licensing requirements and policies for this new control, and applies to Schedule 1 chemicals identified under ECCNs 1C350 and 1C351 and Schedule 2 and Schedule 3 chemicals identified under ECCN 1C350 and new ECCN 1C355, and to technology identified under new ECCN 1E355.

New § 742.18 reflects the requirements of the Convention. Under the Convention, Schedule 1 chemicals may only be exported to other States Parties. States Parties exporting Schedule 1 chemicals must provide advance notification of exports of any quantity of a Schedule 1 chemical, and must submit annual reports of exports of such chemicals during the previous calendar year. The Convention also requires that prior to the export of a Schedule 2 or Schedule 3 chemical to a non-State Party, the exporter obtain an End-Use Certificate issued by the government of the importing country. No Schedule 2 chemical may be exported to a non-State Party after April...
Schedule 1 Chemical Requirements

Export license requirements for Schedule 1 chemicals. This rule imposes a license requirement for CW reasons for exports of CWC Schedule 1 chemicals controlled under ECCN 1C350.a.20, a.24, and a.31 and ECCN 1C351.d.5 and d.6. to all countries, including Canada. Reexports of Schedule 1 chemicals are prohibited. Note that since exports of Schedule 1 chemicals are controlled for more than one reason, licenses for such chemicals will be reviewed under the license review policy for all applicable reasons for control, including the license review policy set forth in § 742.2 and new § 742.18 of the EAR.

Advance notification and annual reporting of exports of Schedule 1 chemicals. This rule adds a new part 745 for CWC advance notification and certain other advance notification requirements. Section 745.1 sets forth the notification and reporting requirements for exports of all Schedule 1 chemicals listed in new Supplement No. 1 to part 745. You must notify BXA at least 45 calendar days prior to exporting any quantity of a Schedule 1 chemical to another State Party. The advance notification requirement is in addition to the export license required for Schedule 1 chemicals controlled under ECCNs 1C350 or 1C351 and §§ 742.2 and 742.18 of the EAR, and for other Schedule 1 chemicals controlled by the State Department’s International Traffic in Arms Regulations. You must also submit annual reports to BXA of all exports of any quantity of a Schedule 1 chemical to another State Party during the previous calendar year, starting with exports taking place during calendar year 1997. Annual reports for exports of Schedule 1 exports during calendar years 1997 and 1998 are due to the Department of Commerce August 16, 1999. If you exported Schedule 1 chemicals in calendar year 1997 and 1998, two reports are due by August 16, 1999. Thereafter, annual reports are due to the Department of Commerce by February 13th of each year. For example, annual reports for exports that were made during calendar year 1999 are due on February 13, 2000.

Schedule 2 and Schedule 3 Chemical Requirements

End-Use Certificate requirements for exports of Schedule 2 and Schedule 3 chemicals to countries that are not CWC States Parties. This rule adds a new § 745.2 a requirement for U.S. persons, as defined in § 744.6(c) of the EAR, to obtain an End-Use Certificate from the government of the importing country and submit a copy of the End-Use Certificate to the Department of Commerce within 7 days of the date of export. This Certificate must be issued by the foreign government’s agency responsible for foreign affairs or any other agency or department designated by the importing government for this purpose, and may be issued to cover aggregate quantities against which multiple shipments may be made to a single consignee. An End-Use Certificate covering multiple shipments may be used until the aggregate quantity is shipped. New Supplement No. 1 to part 745 includes a list of Schedule 2 and Schedule 3 chemicals subject to the End-Use Certificate requirement, and new Supplement No. 2 to part 745 includes a list of States Parties. New Supplement No. 3 to part 745 of the EAR includes foreign government agencies responsible for issuing End-Use Certificates. Additional foreign government entities will be added to Supplement No. 3 to part 745 when known.

An End-Use Certificate is required for exports of Schedule 2 and Schedule 3 chemicals to countries not included in Supplement No. 2 to part 745. Note that the End-Use Certificate requirement set forth in § 745.2 of the EAR applies to all Schedule 2 and Schedule 3 chemicals regardless of whether the chemical is subject to the export license requirement under the EAR or the International Traffic in Arms Regulations (ITAR). Note also that the End-Use Certificate requirement is in addition to any export license requirement under either the EAR or the ITAR.

License requirements. This rule imposes a license requirement for exports of Schedule 2 and Schedule 3 chemicals controlled for CW reasons under ECCNs 1C350 and 1C355, including sample shipments of such chemicals, to non-States Parties when an End-Use Certificate is not obtained. Such applications will generally be denied. Further, this rule imposes a license requirement for exports of Schedule 2 chemicals to non-States Parties on or after April 29, 2000, and imposes a general policy of denial for such exports.

Exports of technology to produce certain Schedule 2 and Schedule 3 chemicals. This rule adds to the CCL new ECCN 1E355 to control technology to produce PFIB, phosgene, cyanogen chloride and hydrogen cyanide. This rule also adds a new § 744.6(c) of the EAR, which controls the use of such technology when destined to non-States Parties, except for Israel and Taiwan. Applications for such exports and reexports will be considered on a case-by-case basis. Note that once countries become States Parties, they will be eligible to receive production technology controlled under 1E355 without a license.

This interim rule also imposes anti-terrorism controls on technology controlled under ECCN 1E355 for Iran, Sudan and Syria, consistent with the provisions of the Export Administration Act after consultation with the Secretary of State.

Exports and reexports of equipment for use in inspections conducted by the OPCW and for the release of technology under the OPCW during inspections. This rule also revises License Exception GOV to permit the export and reexport of equipment for use in inspections in countries party to the Convention, and to permit the release of technology to the OPCW during inspections of chemical facilities in the United States pursuant to the Convention. These exports and reexports are authorized only for the Organization for the Prohibition of Chemical Weapons (OPCW) for official international inspection and verification use under the terms of the Convention. This License Exception is available only on the condition that the information is strictly protected in accordance with applicable provisions of the EAR and other U.S. laws regarding the use and retransfer of U.S. goods and services. License Exception GOV does not authorize export of inspection samples. No samples collected in the United States pursuant to a CWC inspection may be transferred for analysis to any laboratory outside the United States.

This rule also makes conforming changes in § 734.5—Activities of U.S. and foreign persons subject to the EAR; § 736.2—General Prohibitions; and § 748.2—Unique license application requirements. Finally, this rule also revises the Shipper’s Export Declaration (SED) provisions of § 758.3 to require exporters to enter the ECCN on the SED when exporting chemicals controlled under ECCN 1C355 under No License Required (NLR).

The Bureau of Export Administration submitted a foreign policy report to the Congress April 13, 1999 indicating the imposition of new foreign policy controls. Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act after consultation with the Secretary of State.

Savings Clause

Shipments of items now subject to a licensing, advance notification or End-Use Certificate requirement as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or on route aboard a carrier to a port of export pursuant to actual orders for export before May 18, 1999 may be exported without a license up to and including June 1, 1999. Any such items not actually exported before midnight June 1, 1999, require a license or are subject to the advance notification or End-Use Certificate requirements in accordance with this regulation.

Rulemaking Requirements

1. This interim rule has been determined to be not significant for purposes of E.O. 12866.
2. Notwithstanding any other provision of law, no person is required to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These collections have been approved by the Office of Management and Budget under control number 0694-0088. This rule also contains two new information collection requirements subject to the PRA that has received emergency approval under OMB control number 0694-0117. The new information requirement and estimated public burden hours include: Preparing and submitting to BXA Schedule 1 notifications and annual reports (30 minutes each); obtaining the End-Use Certificate from the government of the importing destination; transmitting it to the exporter, and submitting it to BXA (30 minutes). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including: the use of automated collection techniques or other forms of information technology. Please send any comments to regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

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 and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other authority requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim final form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. The period for submission of comments will close June 17, 1999. 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 proprietary nature or for any other reason. The Department will return such comments and materials to the person 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 made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration 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 Henry Gaston, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 426-1362.

List of Subjects

15 CFR Parts 734
Administrative practice and procedure, Exports, Foreign trade.
15 CFR Parts 736, 738, 742, 772 and 774
Exports, Foreign trade.
15 CFR Part 745
Administration practice and procedure, Chemicals, Exports, Foreign trade, Reporting and recordkeeping requirements.
15 CFR Parts 740, 748 and 758
Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 734, 736, 738, 740, 742, 772 and 774 of the Export Administration Regulations (15 CFR Parts 730–799) are amended, and new part 745 is added, to read as follows:

1. The authority citation for part 734 is revised to read as follows:


2. The authority citation for part 736 is amended to read as follows:
§736.2 General prohibitions and determination of applicability.

(a) * * *

(b) * * *

§736.2 General prohibitions and determination of applicability.

(a) * * *

(b) * * *

(7) General Prohibition Seven—Support of proliferation activities (U.S. person proliferation activity).—(i) Support of proliferation activities (U.S. person proliferation activity). (A) If you are a U.S. person as that term is defined in §744.6(c) of the EAR, you may not engage in any activities prohibited by §744.6(a) or (b) of the EAR, which prohibits the performance, without a license from BXA, of certain financing, contracting, service, support, transportation, freight forwarding, or employment that you know will assist in certain proliferation activities described further in part 744 of the EAR. There are no License Exceptions to this General Prohibition Seven in part 740 of the EAR unless specifically authorized in that part.

(B) If you are a U.S. person as that term is defined in §744.6(c) of the EAR, you may not export a Schedule 2 or Schedule 3 chemical listed in Supplement No. 1 to part 745 to a destination not listed in Supplement No. 2 to part 745 without first submitting to the Department of Commerce a copy of the End-Use Certificate as required in §745.2 of the EAR.

(C) If you are a U.S. person as that term is defined in §744.6(c) of the EAR, you may not export a Schedule 1 chemical listed in Supplement No. 1 to part 745 without first complying with the provisions of §§742.16 and 745.2 of the EAR.

* * * *

PART 738—AMENDED

10. Section 738.2 is amended by adding “CW Chemical Weapons Convention” in alphabetical order to the list of Reasons for Control in paragraph (d)(2)(i)(A).

PART 740—AMENDED

11. Section 740.11 is amended by revising the heading and introductory text and by adding new paragraph (c) to read as follows:

§740.11 Governments, international organizations, and international inspections under the Chemical Weapons Convention (GOV).

This License Exception authorizes exports and reexports for international nuclear safeguards; U.S. government agencies or personnel, and agencies of cooperating governments; and international inspections under the Chemical Weapons Convention.

* * * *

(c) International inspections under the Chemical Weapons Convention (CWC or Convention).

(1) The provisions of this paragraph authorize exports and reexports to the Organization for the Prohibition of Chemical Weapons (OPCW) and exports and reexports by the OPCW for official international inspection and verification use under the terms of the Convention. The OPCW is an international organization that establishes and administers inspection and verification regime under the Convention designed to ensure that certain chemicals and related facilities are not diverted from peaceful purposes to non-peaceful purposes. These provisions authorize exports and reexports for official OPCW use of the following:

(i) Commodities and software consigned to the OPCW at its headquarters in The Hague for official international OPCW use for the monitoring and inspection functions set forth in the Convention, and technology relating to the maintenance, repair, and operation of such commodities and software. The OPCW must maintain effective control of such commodities, software, and technology.

(ii) Controlled technology relating to the training of the OPCW inspectorate.

(iii) Controlled technology relating to a CWC inspection site, including technology released as a result of:

(A) Visual inspection of U.S.-origin equipment or facilities by foreign nationals of the inspection team;

(B) Oral communication of controlled technology to foreign nationals of the inspection team in the U.S. or abroad;

(C) The application to situations abroad of personal knowledge or technical experience acquired in the U.S.

(2) Exclusions. The following items may not be exported or reexported under the provisions of this paragraph (c):

(i) Computers with a Composite Theoretical Performance (CTP) greater than 10,000 MTOPS, except that no MTOPS limit applies to exports or reexports to those countries in Computer Tier 1 (see §740.17(b)(1));

(ii) Inspection samples collected in the U.S. pursuant to the Convention;

(iii) Commodities and software that are no longer in OPCW official use. Such items must be disposed of in accordance with the EAR.
PART 742—AMENDED

12. Section 742.2 is amended by revising the introductory text to paragraph (a) to read as follows:

§ 742.2 Proliferation of chemical and biological weapons.

(a) License requirements. The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons. (See also § 742.16 of this part for license requirements pursuant to the Chemical Weapons Convention).

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§ 742.8 [Amended]

13. Section 742.8 is amended by revising the phrase “paragraphs (c)(6) through (c)(39)” in paragraph (a)(4)(i) to read “paragraphs (c)(6) through (c)(41)”.

§ 742.9 [Amended]

14. Section 742.9 is amended by revising the phrase “(c)(22) through (c)(39)” in paragraph (a)(3)(ii) to read “(c)(22) through (c)(41)”.

§ 742.10 [Amended]

15. Section 742.10 is amended by revising the phrase “(c)(16) through (c)(39)” in paragraph (a)(4)(ii) to read “(c)(16) through (c)(41)”.

16. Part 742 is amended by adding a new § 742.18 to read as follows:

§ 742.18 Chemical Weapons Convention (CWC or Convention).

States that are party to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), undertake never to develop, produce, acquire, stockpile, transfer, or use chemical weapons. As a State Party to the Convention, the United States is subjecting certain toxic chemicals and their precursors listed in Schedules within the Convention to trade restrictions. Trade restrictions include a prohibition on the export of Schedule 1 chemicals to non-States Parties, a prohibition on the export of Schedule 2 chemicals to non-States Parties on or after April 29, 2000, and a prohibition on the export of Schedule 3 chemicals to non-States Parties, and a prohibition on the export of Schedule 2 chemicals to States Parties on or after April 29, 2000. (a) License requirements. (1) Schedule 1 chemicals identified in ECCNs 1C350 and 1C351. A license is required for CW reasons for exports and reexports of Schedule 1 chemicals identified under ECCN 1C350.a.20, a.24, and a.31 and ECCN 1C351.d.5 and d.6 to all destinations including Canada. Also see the advance notification procedures and annual reporting requirements described in § 745.1 of the EAR.

(b) License requirements. (1) Schedule 2 and Schedule 3 chemicals. (i) ECCN 1C350. For all chemicals included in ECCN 1C350, other than 1C350.a.20, a.24 and a.31, a license is required for CW reasons unless an End-Use Certificate is obtained as described in § 745.2 of the EAR for exports to destinations not listed in Supplement No. 2 to part 745 of the EAR.

(ii) ECCN 1C355. Chemicals controlled under ECCN 1C355 are controlled for CW reasons. The following license requirements apply:

(A) CWC States Parties. Neither a license nor an End-Use Certificate is required for exports to CWC States Parties (destinations listed in Supplement No. 2 to part 745 of the EAR) for CW reasons. Note that a license may be required for other reasons set forth in the EAR. See in particular the end-use/end-user restrictions of part 744 and the restrictions that apply to embarged countries in part 746 of the EAR.

(B) CWC Non-States Parties. A license is required for exports to non-States Parties (destinations not listed in Supplement No. 2 to part 745 of the EAR) for CW reasons unless the exporter obtains an End-Use Certificate described by § 745.2 of the EAR. Note that a license may be required for other reasons set forth in the EAR. See in particular the end-use/end-user restrictions of part 744 and the restrictions that apply to embarged countries in part 746 of the EAR.

(iii) Exports of Schedule 2 chemicals on or after April 29, 2000. A license is required for CW reasons for exports of Schedule 2 chemicals listed in 1C350 and 1C355 when exported to non-States Parties on or after April 29, 2000, regardless whether the exporter has obtained an End-Use Certificate described in § 745.2 of the EAR. If no end-user certificate is obtained, the application will generally be denied.

(b) Licensing policy. (1) Schedule 1 chemicals. (i) Applications to export Schedule 1 chemicals to States Parties (destinations listed in Supplement No. 2 to part 745 of the EAR) will generally be approved, provided that all of the following conditions are met:

(A) The chemicals are destined for purposes not prohibited by the CWC (e.g., research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time for such purposes is equal to or less than one metric ton and receipt of the proposed export or reexport will not cause the limit to be exceeded.

(ii) Applications to export Schedule 1 chemicals to non-States Parties (destinations not listed in Supplement No. 2 to part 745 of the EAR) will generally be denied.

(iii) Applications to reexport Schedule 1 chemicals will generally be denied.

(b) License requirements. (i) Schedule 2 and Schedule 3 chemicals. (i) CWC States Parties. Applications to export and reexport Schedule 2 and Schedule 3 chemicals controlled under ECCN 1C350 to States Parties (destinations listed in Supplement No. 2 to part 745 of the EAR) will generally be approved to satisfactory end-users, provided the chemicals will only be used for purposes not prohibited by the CWC.

(ii) CWC non-States Parties. (A) ECCN 1C350. Applications to export Schedule 2 chemicals prior to April 29, 2000, and Schedule 3 Schedule chemicals controlled under ECCN 1C350 to CWC non-States Parties (destinations not listed in Supplement No. 2 to part 745 of the EAR) will generally be approved to satisfactory end-users, provided the chemicals will only be used for purposes not prohibited by the CWC.

(b) Licensing policy. (1) Schedule 1 chemicals. (i) Applications to export Schedule 1 chemicals to States Parties (destinations listed in Supplement No. 2 to part 745 of the EAR) will generally be approved, provided that all of the following conditions are met:

(A) The chemicals are destined for purposes not prohibited by the CWC (e.g., research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time for such purposes is equal to or less than one metric ton and receipt of the proposed export or reexport will not cause the limit to be exceeded.

(ii) Applications to export Schedule 1 chemicals to non-States Parties (destinations not listed in Supplement No. 2 to part 745 of the EAR) will generally be denied.

(iii) Applications to reexport Schedule 1 chemicals will generally be denied.

(b) License requirements. (i) Schedule 2 and Schedule 3 chemicals. (i) CWC States Parties. Applications to export and reexport Schedule 2 and Schedule 3 chemicals controlled under ECCN 1C350 to States Parties (destinations listed in Supplement No. 2 to part 745 of the EAR) will generally be approved to satisfactory end-users, provided the chemicals will only be used for purposes not prohibited by the CWC.
§745.1 Advance notification and annual report of all exports of Schedule 1 chemicals to other States Parties.

Pursuant to the Convention, the United States is required to notify the Organization for the Prohibition of Chemical Weapons (OPCW) not less than 30 days in advance of every export of a Schedule 1 chemical, in any quantity, to another State Party. In addition, the United States is required to provide a report of all exports of Schedule 1 chemicals to other States Parties during each calendar year. If you plan to export any quantity of a Schedule 1 chemical controlled under the EAR and licensed by the Department of Commerce or controlled under the International Traffic in Arms Regulations (ITAR) and licensed by the Department of State, you are required under this section to notify the Department of Commerce in advance of this export. You are also required to provide an annual report of exports that actually occurred during the previous calendar year. The United States will transmit the advance notifications and an aggregate annual report to the OPCW of exports of Schedule 1 chemicals from the United States. Note that the notification and annual report requirements of this section do not relieve the exporter of any requirement to obtain a license from the Department of Commerce for the export of Schedule 1 chemicals subject to the EAR or from the Department of State for the export of Schedule 1 chemicals subject to the ITAR.

(a) Advance notification of exports. You must notify BXA at least 45 calendar days prior to exporting any quantity of a Schedule 1 chemical listed in Supplement No. 1 to this part to another State Party. This is in addition to the requirement to obtain an export license under the EAR for chemicals controlled by ECCN 1C350 or 1C351 for any reason for control, or from the Department of State for Schedule 1 chemicals controlled under the ITAR. Note that such notifications may be sent to BXA prior to or after submission of a license application to BXA for Schedule 1 chemicals controlled subject to the EAR and under ECCNs 1C350 or 1C351 or to the Department of State for Schedule 1 chemicals controlled on the ITAR. Such notices must be submitted separately from license applications.

(1) Such notification should be on company letterhead or must clearly identify the reporting entity by name of company, complete address, name of contact person and telephone and fax numbers, along with the following information:
   (i) Common Chemical Name;
   (ii) Structural formula of the chemical;
   (iii) Chemical Abstract Service (CAS) Registry Number;
   (iv) Quantity involved in grams;
   (v) Planned date of export;
   (vi) Purpose (end-use) of export;
   (vii) Name of recipient;
   (viii) Complete street address of recipient;
   (ix) Export license or control number, if known and applicable;
   (x) Company identification number, once assigned by BXA.

(2) Send the notification by fax to (703) 235–1481 or to the following address, for mail and courier deliveries: Information Technology Team, Department of Commerce, Bureau of Export Administration, 1555 Wilson Boulevard, Suite 710, Arlington, VA 22209. Attn: “Advance Notification of Schedule 1 Chemical Export”.

(b) Annual report of exports. (1) You must report all exports of any quantity of a Schedule 1 chemical to another State Party during the previous calendar year, starting with exports taking place during calendar year 1997. Reports for exports during calendar years 1997 and 1998 are due to the Department of Commerce August 16, 1999. Thereafter, annual reports of exports are due on February 13 of the following calendar year. The report should be on company letterhead or must clearly identify the reporting entity by name of company, complete address, name of contact person and telephone and fax numbers along with the following information for each export:
   (i) Common Chemical Name;
   (ii) Structural formula of the chemical;
   (iii) CAS Registry Number;
   (iv) Quantity involved in grams;
   (v) Date of export;
   (vi) Export license number;
   (vii) Purpose (end-use) of export;
   (viii) Name of recipient;
   (ix) Complete address of recipient, including street address, city and country; and (x) Company identification number, once assigned by BXA.

(2) The report must be signed by a responsible party, certifying that the information provided in the annual report is, to the best of his/her knowledge and belief, true and complete.
(3) Send the report by fax to (703) 235-1481 or to the following address, for courier deliveries: Information Technology Team, Department of Commerce, Bureau of Export Administration, 1555 Wilson Boulevard, Suite 710, Arlington, VA 22209. Attn: “Annual Report of Schedule 1 Chemical Export”.

§745.2 End-Use Certificate reporting requirements under the Chemical Weapons Convention.

Note: The End-Use Certificate requirement of this section does not relieve the exporter of any requirement to obtain a license from the Department of Commerce for the export of Schedule 2 or Schedule 3 chemicals subject to the Export Administration Regulations or from the Department of State for the export of Schedule 2 or Schedule 3 chemicals subject to the International Traffic in Arms Regulations.

(a) (1) No U.S. person, as defined in §744.6(c) of the EAR, may export from the United States any Schedule 2 or Schedule 3 chemical identified in Supplement No. 1 to this part to countries not party to the Chemical Weapons Convention (destinations not listed in Supplement No. 2 to this part) unless the U.S. person obtains from the consignee an End-Use Certificate issued by the government of the importing destination. This Certificate must be issued by the foreign government’s agency responsible for foreign affairs or any other agency or department designated by the importing government for this purpose. Supplement No. 3 to this part includes foreign government entities responsible for issuing End-Use Certificates pursuant to this section. Additional foreign government departments or agencies responsible for issuing End-Use Certificates will be included in Supplement No. 3 to this part when known. End-Use Certificates may be issued to cover aggregate quantities against which multiple shipments may be made to a single consignee. An End-Use Certificate covering multiple shipments may be used until the aggregate quantity is shipped. End-Use Certificates must be submitted separately from license applications.

(2) Submit a copy of the End-Use Certificate to the Department of Commerce by fax at (703) 235-1481 or to the following address no later than 7 days after the date of export, for mail and courier deliveries: Information Technology Team, Department of Commerce, Bureau of Export Administration, 1555 Wilson Boulevard, Suite 710, Arlington, VA 22209. Attn: CW-C End-Use Certificate Report.

(b) The End-Use Certificate described in paragraph (a) of this section must state the following:

(1) That the chemicals will be used only for purposes not prohibited under the Chemical Weapons Convention;

(2) That the chemicals will not be transferred to other end-user(s) or end-uses;

(3) The types and quantities of chemicals;

(4) Their specific end-use(s); and

(5) The name(s) and complete address(es) of the end-user(s).

---

### SUPPLEMENT NO. 1 TO PART 745—SCHEDULES OF CHEMICALS

#### Schedule 1

<table>
<thead>
<tr>
<th>C.A.S. Registry No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>107-44-8</td>
<td>O-Alkyl (≤C10, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates e.g. Sarin: O-Isopropyl methylphosphonofluoridate</td>
</tr>
<tr>
<td>96-64-0</td>
<td>Soman: O-Pinacolyl methylphosphonofluoridate</td>
</tr>
<tr>
<td>77-81-6</td>
<td>O-Alkyl (≤C10, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanidates e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate</td>
</tr>
<tr>
<td>50782-69-9</td>
<td>O-Alkyl (H or ≤C10, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothioates and corresponding alkylated or protonated salts e.g. VX: O-Ethyl S-2-disopropylaminoethyl methyl phosphonothiolate</td>
</tr>
<tr>
<td>2625-76-5</td>
<td>Sulfur mustards: 2-Chloroethylchloromethylsulfide</td>
</tr>
<tr>
<td>505-60-2</td>
<td>Mustard gas: Bis(2-chloroethyl)sulfide</td>
</tr>
<tr>
<td>63869-13-6</td>
<td>Bis(2-chloroethylthio)methane</td>
</tr>
<tr>
<td>3563-36-8</td>
<td>Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane</td>
</tr>
<tr>
<td>63905-10-2</td>
<td>1,3-Bis(2-chloroethylthio)-n-propane</td>
</tr>
<tr>
<td>142868-93-7</td>
<td>1,4-Bis(2-chloroethylthio)-n-butane</td>
</tr>
<tr>
<td>142868-94-8</td>
<td>1,5-Bis(2-chloroethylthio)-n-pentane</td>
</tr>
<tr>
<td>63918-90-1</td>
<td>Bis(2-chloroethylthiomethyl)ether</td>
</tr>
<tr>
<td>63918-89-8</td>
<td>O-Mustard: Bis(2-chloroethylthioethyl)ether</td>
</tr>
<tr>
<td>541-25-3</td>
<td>Lewisites: 1: 2-Chlorovinylidichloroarsine</td>
</tr>
<tr>
<td>40334-69-8</td>
<td>Lewisites 2: Bis(2-chlorovinyl)chloroarsine</td>
</tr>
<tr>
<td>40334-70-1</td>
<td>Lewisites 3: Tris(2-chlorovinyl)arsine</td>
</tr>
<tr>
<td>538-07-8</td>
<td>Nitrogen mustards: HN1: Bis(2-chloroethyl)ethylamine</td>
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<tr>
<td>51-75-2</td>
<td>HN2: Bis(2-chloroethyl)methylamine</td>
</tr>
<tr>
<td>555-77-1</td>
<td>HN3: Tris(2-chloroethyl)amine</td>
</tr>
<tr>
<td>35523-89-8</td>
<td>Saxitoxin</td>
</tr>
<tr>
<td>9009-86-3</td>
<td>Ricin</td>
</tr>
</tbody>
</table>

---

### B. Precursors:

(9) Alkyl (Me, Et, n-Pr or i-Pr) phosphonofluoridates e.g. DF: Methylphosphonofluoridate

(10) O-Alkyl (H or ≤C10, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts e.g. QL: O-Ethyl O-2-disopropylaminoethyl methylphosphonite

(11) Chlorosarin: O-Isopropyl methylphosphonochloridate

(12) Chlorosoman: O-Pinacolyl methylphosphonochloridate
### Schedule 2

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Phosgene: Carbonyl dichloride</td>
<td>75±44-5</td>
</tr>
<tr>
<td>2</td>
<td>Cyanogen chloride</td>
<td>506±77-4</td>
</tr>
<tr>
<td>3</td>
<td>Hydrogen cyanide</td>
<td>74±90-8</td>
</tr>
<tr>
<td>4</td>
<td>Chloropicrin: Trichloronitromethane</td>
<td>76±06-2</td>
</tr>
</tbody>
</table>

### Schedule 3

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Phosphorus oxychloride</td>
<td>10025±87-3</td>
</tr>
<tr>
<td>2</td>
<td>Phosphorus trichloride</td>
<td>7719±12-2</td>
</tr>
<tr>
<td>3</td>
<td>Phosphorus pentachloride</td>
<td>10026±13-8</td>
</tr>
<tr>
<td>4</td>
<td>Diethyl sulfoxide</td>
<td>121±45-9</td>
</tr>
<tr>
<td>5</td>
<td>Triethyl phosphate</td>
<td>122±52-1</td>
</tr>
<tr>
<td>6</td>
<td>Dimethyl phosphate</td>
<td>866±85-9</td>
</tr>
<tr>
<td>7</td>
<td>Methylphosphonic acid</td>
<td>76±09-9</td>
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<tr>
<td>8</td>
<td>Sulfur dichloride</td>
<td>10025±67-9</td>
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<tr>
<td>9</td>
<td>Thionyl chloride</td>
<td>10545±99-0</td>
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<tr>
<td>10</td>
<td>Chlorine</td>
<td>7719±09-7</td>
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<tr>
<td>11</td>
<td>Phosgene</td>
<td>139±87-7</td>
</tr>
<tr>
<td>12</td>
<td>Ethylidene oxide</td>
<td>105±59-9</td>
</tr>
<tr>
<td>13</td>
<td>Ethylidene oxide</td>
<td>102±71-6</td>
</tr>
</tbody>
</table>

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**Supplement No. 2 to Part 745—States Parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction**

<table>
<thead>
<tr>
<th>Country</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brazil</td>
<td>Brunei Darussalam</td>
</tr>
<tr>
<td>Mexico</td>
<td>France</td>
</tr>
<tr>
<td>Uruguay</td>
<td>Gambia</td>
</tr>
<tr>
<td>Portugal</td>
<td>Georgia</td>
</tr>
<tr>
<td>Spain</td>
<td>Germany</td>
</tr>
<tr>
<td>Austria</td>
<td>Ghana</td>
</tr>
<tr>
<td>Lithuania</td>
<td>Greece</td>
</tr>
<tr>
<td>Poland</td>
<td>Guinea</td>
</tr>
<tr>
<td>Russia</td>
<td>Guyana</td>
</tr>
<tr>
<td>Cuba</td>
<td>Hungary</td>
</tr>
<tr>
<td>Iran</td>
<td>Iceland</td>
</tr>
<tr>
<td>Cyprus</td>
<td>India</td>
</tr>
<tr>
<td>Japan</td>
<td>Indonesia</td>
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<tr>
<td>Turkey</td>
<td>Iran</td>
</tr>
<tr>
<td>Egypt</td>
<td>Ireland</td>
</tr>
<tr>
<td>Israel</td>
<td>Ireland</td>
</tr>
<tr>
<td>Jordan</td>
<td>Ireland</td>
</tr>
<tr>
<td>Korea (Republic of)</td>
<td>Ireland</td>
</tr>
<tr>
<td>Qatar</td>
<td>Laos (P.D.R.)</td>
</tr>
</tbody>
</table>
LA-T Union of Soviet Socialist Republics
Lesotho
Lithuania
Luxembourg
Macedonia
Malawi
Maldives
Mali
Malta
Mauritius
Mauritania
Mexico
Moldova (Republic of)
Monaco
Mongolia
Morocco
Namibia
Nepal
Netherlands
New Zealand
Niger
Norway
Oman
Pakistan
Panama
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Romania
Russian Federation
Saint Lucia
Saudi Arabia
Senegal
Seychelles
Singapore
Slovak Republic
Slovenia
South Africa
Spain
Sri Lanka
Suriname
Swaziland
Sweden
Switzerland
Tajikistan
Tanzania
Togo
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
United Kingdom
Ukraine
United States
Uruguay
Uzbekistan
Venezuela
Vietnam
Zimbabwe

**Supplement No. 3 to Part 740—Foreign Government Agencies Responsible for Issuing End-Use Certificates Pursuant to § 745.2**

Israel
Chemical, Environment Technology Administration, Ministry of Industry & Trade, 30 Agnon Street, Jerusalem 94190, Israel
Contact: Josef Dancona, Deputy Director, Telephone: 972-2-6220193, Fax: 972-2-6241987
Taiwan
Industrial Development Bureau, Ministry of Economic Affairs, 41-3, Sinyi Road Sec 3, Taipei, Taiwan, ROC
Contact: Ms. Yee-Ling Shiu, Telephone: 886-2-27541255, Ext. 2329

**PART 748—[AMENDED]**

19. Section 748.8 is amended by adding paragraph (q) to read as follows:

§ 748.8 Unique license application requirements.

* * * * *

(q) Exports of chemicals controlled for CW reasons by ECCN 1C350 to countries not listed in Supplement No. 2 to part 745 of the EAR.

20. Supplement No. 2 to part 748 is amended by adding paragraph (q) to read as follows:

**Supplement No. 2 to Part 748—Unique License Application Requirements**

(q) Chemicals controlled for CW reasons under ECCN 1C350. In addition to any supporting documentation required by part 748, you must also obtain from your consignee an End-Use Certificate for the export of chemicals controlled for CW reasons by ECCN 1C350 (except 1C350.a.20), a.24, and a.31) to non-States Parties (destinations not listed in Supplement No. 2 to part 745 of the EAR). See § 745.2 of the EAR.

**PART 772—[AMENDED]**

* * * * *


* * * * *


**PART 774—[AMENDED]**

23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1, is amended by revising ECCN 1C350 to read as follows:

1C350 Chemicals, that may be used as precursors for toxic chemical agents.

**License Requirements**

Reason for Control: CB, CW, AT

---

**Control(s)**

<table>
<thead>
<tr>
<th>CB applies to entire entry</th>
<th>CB Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>CW applies to 1C350.a.2, a.3, a.5, a.6, a.7, a.8, a.10, a.11, a.12, a.13, a.15, a.16, a.17, a.20, a.21, a.22, a.23, a.24, a.28, a.29, a.30, a.31, a.32, a.33, a.35, a.37, a.41, a.47, a.48, a.49, a.50, a.51, a.53, or a.54. For 1C350.a.20, a.24 and a.31, a license is required for CW reasons for all destinations, including Canada. For all other chemicals controlled for CW reasons, a license is required for export to countries not listed in Supplement No. 2 to part 745, unless an End-Use Certificate is obtained by the exporter. See § 742.18 of the EAR. Also, see § 745.2 of the EAR for End-Use Certificate requirements. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons.</td>
<td>CB Column 2</td>
</tr>
</tbody>
</table>

| AT applies to entire entry | AT Column 1 |

**License Requirement Notes**

1. Sample Shipments: Certain sample shipments of chemicals controlled under ECCN 1C350 may be made without a license, as provided by the following:

a. Chemicals Not Eligible: The following CWC Schedule 1 chemicals are not eligible for sample shipments: 0-
Methylphosphonyl difluoride (C.A.S. #676–99–3).

b. Countries Not Eligible: The following countries are not eligible to receive any sample shipments: Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria.

c. Sample Shipments: A license is not required for sample shipments when the cumulative total of these shipments does not exceed a 55-gallon container or 200 kg of each chemical to any one consignee per calendar year. Multiple sample shipments. In any quantity, not exceeding the totals indicated in this paragraph may be exported without a license, in accordance with the provisions of this Note 1. A consignee that receives a sample shipment under this exclusion may not resell, transfer, or reexport the sample shipment, but may use the sample shipment for any other purpose unrelated to chemical weapons. However, a sample shipment exported and received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR. Sample shipments of chemicals controlled for CW reasons to non-States Parties (destinations not listed in Supplement No. 2 to part 745 of the EAR) may not be made without first obtaining an End-Use Certificate, as described in § 745.2 of the EAR. If no End-Use Certificate is obtained pursuant to § 745.2 of the EAR, a license is required for sample shipments of chemicals controlled under ECCN 1C350 for CW reasons.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, P. O. Box 273, Washington, DC 20044, Attn: “Report of Sample Shipments of Chemical Precursors”.

2. Mixtures: Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following licensing requirements:


Note to Mixtures: Calculation of concentrations of AG-controlled chemicals:

a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations.

b. Absolute Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents.

c. Example. 11% chemical listed in paragraph b. of Note 2.

39% chemical not listed in Note 2
50% Solvent
100% Mixture
11/100=11% chemical listed in paragraph b. of Note 2.

In this example, a license is required because a chemical listed in paragraph b. of Note 2 constitutes more than 10 percent of the weight of the mixture.

3. Compounds. A license is not required under this entry for chemical compounds created with any chemicals identified in this entry, unless those compounds are also identified in this entry.

Technical Notes: 1. For purposes of this entry, a “mixture” is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

2. The scope of this control applicable to Hydrogen Fluoride (Item 25 in List of Items Controlled) includes its liquid, gaseous, and aqueous phases, and hydrates.

License Exceptions

LVS: N/A.
GBS: N/A.
CIV: N/A.

List of Items Controlled

Unit: Liters or kilograms, as appropriate.

Related Controls: 1C350.a.20, a.24, and a.31 are CWC Schedule 1 chemicals (see § 742.18 of the EAR). The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. See §§ 742.18 and 745.1 of the EAR for notification and annual report requirements. See also ECCN 1C355. See 22 CFR part 121, Category XIV and § 121.7 for additional CWC Schedule 1 chemicals controlled by the Department of State.

Related Definitions: See § 770.2(k) of the EAR for synonyms for the chemicals listed in this entry.

Items:

a. Precursor Chemicals, as follows:

   a.1. (C.A.S. #1341–49–7) Ammonium hydrogen fluoride
   a.2. (C.A.S. #7784–34–1) Arsenic trichloride
   a.3. (C.A.S. #76–93–7) Benzilic acid
   a.4. (C.A.S. #107–07–3) 2-Chloroethanol
   a.5. (C.A.S. #478–38–6) Diethyl ethylphosphonate
   a.6. (C.A.S. #15715–41–0) Diethyl methylphosphonite
   a.7. (C.A.S. #2404–03–7) Diethyl-N,N-dimethylphosphoroamidate
   a.8. (C.A.S. #476–04–9) Diethyl phosphite
   a.9. (C.A.S. #100–37–8) N,N-Diethylami noethanol
   a.10. (C.A.S. #5842–07–9) N,N-Diisopropyl-beta-ami noethane thiol
   a.11. (C.A.S. #4261–68–1) N,N-Diisopropyl-beta-aminoethyl chloride hydrochloride
   a.13. (C.A.S. #96–79–7) N,N-
Diisopropyl-beta-amoethyyl chloride;

isopropylamine;
a.15. (C.A.S. #6163-75-3) Dimethyl ethyolphosphate;
a.16. (C.A.S. #756-79-6) Dimethyl methylphosphate;
a.17. (C.A.S. #688-85-9) Dimethyl phosphite (dimethyl hydrogen phosphite);
a.18. (C.A.S. #124-40-3) Dimethylamine;
a.20. (C.A.S. #57856-11-8) O-Ethyl-2-diisopropylaminooethyl methyl phosphonite (QL);
a.21. (C.A.S. #1498-40-4) Ethyl phosphonous dichloride [Ethyl phosphinyl dichloride];
a.22. (C.A.S. #430-78-4) Ethyl phosphonous disulfide [Ethyl phosphinyl disulfide];
a.23. (C.A.S. #1066-50-8) Ethyl phosphorus dichloride;
a.24. (C.A.S. #753-98-0) Ethyl phosphorus disulfide;
a.26. (C.A.S. #3554-74-3) 3-Hydroxyl-L-methylpiperidine;
a.27. (C.A.S. #76-89-1) Methyl benzilate;
a.28. (C.A.S. #667-83-5) Methyl phosphonous dichloride [Methyl phosphinyl dichloride];
a.29. (C.A.S. #753-59-3) Methyl phosphonous difluoride [Methyl phosphinyl difluoride];
a.30. (C.A.S. #767-97-1) Methyl phosphonous dichloride;
a.31. (C.A.S. #676-99-3) Methyl phosphorus dichloride;
a.32. (C.A.S. #10025-87-3) Phosphorus oxychloride;
a.33. (C.A.S. #10026-13-8) Phosphorus pentachloride;
a.34. (C.A.S. #1314-80-3) Phosphorus pentasulfide;
a.35. (C.A.S. #7719-12-2) Phosphorus trichloride;
a.36. (C.A.S. #75-97-8) Pinacolone;
a.37. (C.A.S. #464-07-3) Pinacolyl alcohol;
a.38. (C.A.S. #151-50-8) Potassium cyanide;
a.39. (C.A.S. #7789-23-3) Potassium fluoro;
a.40. (C.A.S. #7789-29-9) Potassium bifluoride;
a.41. (C.A.S. #1619-34-7) 3-

Quinuclidinol;
a.42. (C.A.S. #3731-38-2) 3-

Quinuclidone;
a.43. (C.A.S. #1333-83-1) Sodium bifluoride;
a.44. (C.A.S. #143-33-9) Sodium cyanide;
a.45. (C.A.S. #7681-49-4) Sodium fluoro;
a.46. (C.A.S. #1313-82-2) Sodium sulfide;
a.47. (C.A.S. #10025-67-9) Sulfur monochloride;
a.48. (C.A.S. #10545-99-0) Sulfur dichloride;
a.49. (C.A.S. #111-48-8) Thiodiglycol;
a.50. (C.A.S. #7719-09-7) Thionyl chloride;
a.51. (C.A.S. #102-71-6) Triethanolamine;
a.52. (C.A.S. #637-39-8) Triethanolamine hydrochloride;
a.53. (C.A.S. #122-52-1) Triethyl phosphite; and
a.54. (C.A.S. #121-45-9) Trimethyl phosphite.

b. Reservoir.

24–25. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1 is amended by revising ECCN 1C351 to read as follows:

1C351 Human pathogens, zoonoses, and "toxins".

License Requirements

Reason for Control: CB, CW, AT.

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>CB applies to entire entry</td>
<td>CB Column 1</td>
</tr>
<tr>
<td>CW applies to 1C351.d.5 and d.6</td>
<td>CB Column 1</td>
</tr>
<tr>
<td>AT applies to entire entry</td>
<td>AT Column 1</td>
</tr>
</tbody>
</table>

License Exceptions

LVS: N/A.
GBS: N/A.
CIV: N/A.

List of Items Controlled

Unit: Liters or kilograms, as appropriate.

Related Controls: 1C351.d.5, and d.6 are CWC Schedule 1 chemicals (see § 742.18 of the EAR).

a. Japanese ench旨在itis virus;
a.6. Junin virus;

The U.S. Government must provide advance notification and annual reports to the OPCW of all exports of Schedule 1 chemicals. See § 743.2 of the EAR for notification procedures. See 22 CFR part 121, Category XIV and § 121.7 for additional CWC Schedule 1 chemicals controlled by the Department of State. All vaccines and "immunotoxins" are excluded from the scope of this entry. See also 1C991.

Related Definitions: (1) For the purposes of this entry "immunotoxin" is defined as an antibody-toxin conjugate intended to destroy specific target cells (e.g., tumor cells) that bear antigens homologous to the antibody.

(2) For the purposes of this entity "subunit" is defined as a portion of the "toxin".

Items:
a. Viruses, as follows:
a.1. Chikungunya virus;
a.2. Congo-Crimean haemorrhagic fever virus;
a.3. Dengue fever virus;
a.4. Eastern equine encephalitis virus;
a.5. Ebola virus;
a.6. Hantaan virus;
a.9. Lassa fever virus;
a.10. Lymphocytic choriomeningitis virus;
a.11. Machupo virus;
a.12. Marburg virus;
a.13. Monkey pox virus;
a.14. Rift Valley fever virus;
a.15. Tick-borne encephalitis virus (Russian Spring-Summer encephalitis virus);
a.16. Variola virus;
a.17. Venezuelan equine encephalitis virus;
a.18. Western equine encephalitis virus;
a.19. White pox; or
a.20. Yellow fever virus.
b. Rickettsiae, as follows:
b.1. Bartonella quintana (Rochalimea quintana, Rickettsia quintana);
b.2. Coxiella burnetii;
b.3. Rickettsia prowasecki; or
b.4. Rickettsia rickettsi.
c. Bacteria, as follows:
c.1. Bacillus anthracis;
c.2. Brucella abortus;
c.3. Brucella melitensis;
c.4. Brucella suis;
c.5. Burkholderia mallei (Pseudomonas mallei);
c.6. Burkholderia pseudomallei (Pseudomonas pseudomallei);
c.7. Chlamydia psittaci;
c.8. Clostridium botulinum;
c.9. Francisella tularensis;
c.10. Salmonella typhi;
c.11. Shigella dysenteriae;
c.12. Vibrio cholerae;
License Requirements

ECCN 1C350 or by the Department of State (CWC) Schedule 2 and 3 chemicals and 1C355 Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and subunits.

License Requirements

Reason for Control: CW.

Control(s)

CW applies to entire entry. A license is required for CW reasons only to CWC non-States Parties (destinations not listed in Supplement No. 2 to part 745), unless an End-Use Certificate is obtained by the exporter (see § 742.18 of the EAR). See § 745.2 of the EAR for End-Use Certificate requirements, and the License Requirements Notes of this entry. Also note the export clearance requirements of § 758.3 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for CW reasons.

License Requirements Notes

1. Chemicals listed in this entry may be shipped NLR (No License Required) when destined to most CWC States Parties (countries listed in Supplement No. 2 to part 745). Also see License Requirement Note 3.

2. Chemicals listed in this entry may be shipped NLR when destined to most non-States Parties (destinations not listed in Supplement No. 2 to part 745) if supported by an End-Use Certificate described by § 745.2 of the EAR and if the ECCN is indicated on the Shipper’s Export Declaration in the appropriate space as provided in § 758.3 of the EAR. Chemicals listed in this entry require a license when exported to non-States Parties if the export is not supported by an End-Use Certificate described by § 745.2 of the EAR.

3. Chemicals listed in this entry may not be shipped NLR if restrictions of other sections of the EAR apply (e.g., see the end-use and end-user restrictions of part 744 of the EAR and the restrictions that apply to embargoed countries in part 746 of the EAR).

4. Mixtures: Mixtures controlled by this entry that contain certain concentrations of precursor and intermediate chemicals are subject to the following requirements:

   a. Mixtures are controlled under this entry when containing at least one of the chemical’s controlled under 1C355.a when the chemical constitutes more than 10 percent of the weight of the mixture.

   b. Mixtures are controlled under this entry when containing at least one of the chemicals controlled under 1C355.b when the chemical constitutes more than 25 percent of the weight of the mixture.

   c. Mixtures containing chemicals identified in this entry are not controlled by ECCN 1C355 when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are classified as EAR99.

   Note to mixtures: Calculation of concentrations.

   a. Exclusion. No chemical may be added to the mixture (solution) for the sole purpose of circumventing the Export Administration Regulations;

   b. Absolute Weight Calculation. When calculating the percentage, by weight, of components in a chemical mixture, include all components of the mixture, including those that act as solvents;

   c. Example. 11% chemical listed in 1C355.a 39% chemical not listed in 1C355.a 50% Solvent 100% Mixture 11/100 = 11% chemical listed in 1C355.a

In this example, the mixture is controlled under this entry because a chemical listed in 1C355.a constitutes more than 10 percent of the weight of the mixture.

5. Compounds. Compounds created with any chemicals identified in this ECCN 1C355 may be shipped NLR, unless those compounds are also identified in this entry.

Technical Notes: For purposes of this entry, a “mixture” is defined as a solid, liquid or gaseous product made up of two or more components that do not react together under normal storage conditions.

License Exceptions

LVS: N/A.

GBS: N/A.

CIV: N/A.

List of Items Controlled

Unit: Liters or kilograms, as appropriate.

Related Controls: See also ECCNs 1C350 and 1C351. See §§ 742.18 and 745.2 of the EAR for End-Use Certification requirements. See 22 CFR part 121, Category XIV and § 121.7 for chloropicrin (trichloronitromethane)(76–06–2) (Schedule 3). Mixtures containing chloropicrin (trichloronitromethane) that have been transferred to the Department of Commerce from the Department of State through a commodity jurisdiction determination are controlled under this entry unless exempt by paragraph 4.b. of Licensing Requirements Notes.

Related Definitions: N/A.

Items:

a. CWC Schedule 2 chemicals:

   a.1. Toxic chemicals:

      a.1.a. PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluorometyl)-1-propene (382–21–8);

   a.1.b. (Reserved)

   a.2. Precursors:

      a.2.a. FAMILY: Chemicals except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl, or propyl (normal or iso) group with no additional carbon atoms in the structure;

      a.2.b. FAMILY: Toxic chemicals:

         a.2.b.a. Cyanogen chloride (506–77–4);

         a.2.b.b. Methyldiethanolamine (105–75–8);

         a.2.b.c. N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts; and corresponding phosphoramidic dihalides;

         a.2.b.d. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) N,N-diethylaminoethyl-2-clorides and corresponding protonated salts;

         a.2.b.e. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts;

         a.2.b.e.a. does not control N,N-Demethylaminoethanol and corresponding protonated salts (108–01–0) or N,N-Diethylaminoethanol and corresponding protonated salts (100–37–8);

         a.2.f. FAMILY: N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts;

         a.2.f.a. does not control N,N-Dimethylaminoethanol and corresponding protonated salts (108–01–0) or N,N-Diethylaminoethanol and corresponding protonated salts (100–37–8);

         b. CWC Schedule 3 chemicals:

            b.1. Toxic chemicals:

               b.1.a. Phosgene: Carbonyl dichloride (75–44–5);

               b.1.b. Cyanogen chloride (506–77–4);

               b.1.c. Hydrogen cyanide (74–90–8);

            b.2. Precursors:

               b.2.a. Ethyldiethanolamine (139–87–7);

               b.2.b. Methylidihanolamine (105–59–9);

            b.3. Mixtures containing chloropicrin (trichloronitromethane)(76–06–2) transferred from the Department of State (see Related Controls).
27. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1, is amended by revising the heading of ECCN 1E001 to read as follows:

1E001 "Technology" according to the General Technology Note for the "development" or "production" of items controlled by 1A001.b., 1A001.c., 1A002, 1A003, 1A005, 1A102, 1B or 1C (except 1C355, 1C980, 1C981, 1C982, 1C983, 1C984, 1C988, 1C991, 1C992, 1C993, 1C994 and 1C995).

28. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1 is amended by adding new ECCN 1E355 to read as follows:

1E355 Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals, as follows (see List of Items Controlled):

**License Requirements**

Reason for Control: CW, AT.

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**Control(s) Country chart**

<table>
<thead>
<tr>
<th>Control(s)</th>
<th>Country chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>SW</td>
<td>applies to entire entry. A license is required for CW reasons to CWC non-States Parties (destinations not listed in Supplement No. 2 to part 745), except for Israel and Taiwan. See § 472.18 of the EAR. The Commerce Country Chart is not designed to determine licensing requirements for items controlled for SW reasons.</td>
</tr>
<tr>
<td>AT</td>
<td>applies to entire entry</td>
</tr>
</tbody>
</table>

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**License Exceptions**

- TSR: N/A.
- CIV: N/A.

**List of Items Controlled**

- Unit: N/A.
- Related Controls: N/A.
- Related Definitions: N/A.
- Items:
  - a. Technology for the production of the following CWC Schedule 2 toxic chemicals:
    - a.1. PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene (382±21±8);
    - a.2. [Reserved]
  - b. Technology for the production of the following CWC Schedule 3 toxic chemicals CWC:
    - b.1. Phosgene: Carbonyl dichloride (75–44–5);
    - b.2. Cyanogen chloride (506–77–4);
    - b.3. Hydrogen cyanide (74–90–8).

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R. Roger Majak,
Assistant Secretary for Export Administration.

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