

DEPARTMENT OF COMMERCE**Bureau of Export Administration****15 CFR Parts 738, 740, 770, 772, and 774**

[Docket No. 961219362-6362-01]

RIN 0694-AB52

Revisions to the Export Administration Regulations: Addition of the Republic of South Korea to Australia Group (AG), Clarification to the Sample Shipments Exemption in ECCN 1C350, and Correction to the Commerce Country Chart**AGENCY:** Bureau of Export Administration, Commerce.**ACTION:** Final rule.

SUMMARY: As of October 1996, the Republic of Korea (South Korea) is a member of the Australia Group (AG). Therefore, South Korea is to be treated as an AG member under U.S. regulations. This includes exemption from certain requirements under the Export Administration Regulations (EAR) for items controlled for Chemical/Biological weapons proliferation (CB) reasons.

In addition, this rule makes a clarification to the exemption for sample shipments in ECCN 1C350 and corrections to Supplement Number 1 to part 738, the Commerce Country Chart, CB Column 3 (Chemical and Biological Weapons), by removing the license requirement symbol "X" from Romania and South Africa, as this symbol was inadvertently included in previous regulations, and removing all the license requirement symbols "X" from the Iraq row and replacing them with the phrase that is common to all embargoed destinations, "See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination".

This action will lessen the administrative burden on U.S. exporters, by decreasing license application requirements for exports of items controlled for CB reasons to South Korea, Romania, and South Africa.

DATE: This rule is effective February 12, 1997.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, call Sharron Cook, Regulatory Policy Division, at (202)482-2440.

For questions of a technical nature, contact Jim Seevaratnam, Chemical and Biological Controls Division, at (202)482-3343 or at facsimile (202) 482-0751.

For questions on Chemical and Biological Warfare policy controls, contact Patricia Sefcik, Chemical and Biological Controls Division at (202) 482-0707 or at facsimile (202) 482-0751.

SUPPLEMENTARY INFORMATION:**Background**

As a result of the Republic of Korea (South Korea) being admitted to the Australia Group (AG), this rule adds South Korea to Supplement Number 1 to part 740, Country Group A, Column A:3 (Australia Group) and removes the license requirement symbol "X" from South Korea in Supplement Number 1 to part 738, the Commerce Country Chart, CB Column 2 (Chemical and Biological Weapons).

In addition, the license requirement symbol "X" is removed from Romania and South Africa, in Supplement Number 1 to part 738, the Commerce Country Chart, CB Column 3 (Chemical and Biological Weapons), as this symbol was inadvertently included in previous regulations.

Additional corrections are made to Supplement Number 1 to part 738, the Commerce Country Chart, by removing all the license requirement symbols "X" from the Iraq row and replacing them with the phrase, "See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination", and removing the footnote 1 reference from Bosnia & Herzegovina, Croatia, and Serbia & Montenegro.

In section 770.2(k) of the EAR, interpretation 11, "precursor chemicals", has been revised by adding South Korea to the countries that are exempt from the ECCN 1C350 license requirements for the chemicals listed. In addition, Poland, Romania, and Slovak Republic have been added to this paragraph, as they were inadvertently omitted in previous regulations.

In addition, the definition for "Australia Group", in part 772, has been revised to include South Korea.

Lastly, this rule makes a clarification to the exemption for sample shipments found in License Requirement Note 1 of ECCN 1C350. The clarification is listed in paragraph (c) of the note and states, "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 received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR." This end-use restriction

was added to make clear to exporters that when BXA deleted "for research or evaluation" from the sample shipment exclusion (60 F.R. 54030, October 19, 1995), BXA did not intend to allow the resell, transfer or reexport of the sample shipments by consignees.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, as extended by the President's notice of August 15, 1995 (60 FR 42767) and August 14, 1996 (61 FR 42527).

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0086 and 0694-0088. The effect of this rule will decrease license application requirements, thus reduce the paperwork burden on the public. Notwithstanding any other provision of law, no person is required to respond nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 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 (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Therefore, this regulation is issued in final form. Although there is no formal

comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Parts 738, 770, 772, and 774

Exports, Foreign trade.

15 CFR Part 740

Administrative practice and procedure, Exports, Foreign trade,

Reporting and recordkeeping requirements.

Accordingly, parts 738, 740, 770, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–799A) are amended as follows:

1. The authority citation for 15 CFR parts 738 and 774 continue to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p.

917; Notice of August 15, 1995, 3 C.F.R. 1995 Comp. 501 (1996); Notice of August 14, 1996 (61 FR 42527, August 15, 1996).

2. The authority citation for 15 CFR parts 740, 770 and 772 continue to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 C.F.R. 1995 Comp. 501 (1996); Notice of August 14, 1996 (61 FR 42527, August 15, 1996).

PART 738—[AMENDED]

3. Supplement Number 1 to Part 738, Commerce Country Chart, is revised to read as follows:

COMMERCE COUNTRY CHART

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column	CB column	CB column	NP column	NP column	NS column	NS column	MT column	RS column	RS column	CC column	CC column	CC column	AT column	AT column
	1	2	3	1	2	1	2	1	1	2	1	2	3	1	2
Afghanistan	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Albania	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Algeria	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Andorra	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Angola ¹	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Antigua & Barbuda	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Argentina	X	.....	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Armenia	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Australia	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Austria	X	.....	.....	.....	.....	X	.....	X	X	X	X	.....	X	.....	.....
Azerbaijan	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Bahamas, The	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Bahrain	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Bangladesh	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Barbados	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Belarus	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Belgium	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Belize	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Benin	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Bhutan	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Bolivia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Bosnia & Herzegovina	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Botswana	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Brazil	X	X	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Brunei	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Bulgaria	X	X	X	.....	.....	X	X	X	X	X	X	X	.....	.....	.....
Burkina Faso	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Burma	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Burundi	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Cambodia	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Cameroon	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Canada .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cape Verde	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Central African Republic	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Chad	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Chile	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
China	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Colombia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Comoros	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Congo	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Costa Rica	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Cote d'Ivoire	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Croatia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Cuba	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Cyprus	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Czech Republic	X	.....	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Denmark	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Djibouti	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Dominica	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Dominican Republic	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Ecuador	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Egypt	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....

COMMERCE COUNTRY CHART—Continued

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column	CB column	CB column	NP column	NP column	NS column	NS column	MT column	RS column	RS column	CC column	CC column	CC column	AT column	AT column
	1	2	3	1	2	1	2	1	1	2	1	2	3	1	2
El Salvador	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Equatorial Guinea	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Eritrea	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Estonia	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Ethiopia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Fiji	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Finland	X	.....	.....	.....	.....	X	.....	X	X	X	X	.....	X	.....	.....
France	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Gabon	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Gambia, The	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Georgia	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Germany	X	.....	.....	.....	.....	X	.....	X	.....	.....	.....	.....	.....	.....	.....
Ghana	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Greece	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Grenada	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Guatemala	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Guinea	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Guinea-Bissau	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Guyana	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Haiti	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Honduras	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Hong Kong	X	X	.....	X	.....	X	X ²	X	X	X	X	.....	X	.....	.....
Hungary	X	.....	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Iceland	X	.....	.....	X	.....	X	X	X	X	.....	.....	.....	.....	.....	.....
India	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
Indonesia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Iran	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Iraq ¹	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Ireland	X	.....	.....	.....	.....	X	.....	X	X	X	X	.....	X	.....	.....
Israel	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
Italy	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Jamaica	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Japan	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Jordan	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Kazakhstan	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Kenya	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Kiribati	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Korea, North	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Korea, South	X	.....	.....	.....	.....	X	X ²	X	X	X	X	.....	X	.....	.....
Kuwait	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Kyrgyzstan	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Laos	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Latvia	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Lebanon	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Lesotho	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Liberia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Libya	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Liechtenstein	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Lithuania	X	X	.....	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Luxembourg	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
FYROM (Macedonia)	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Madagascar	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Malawi	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Malaysia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Maldives	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mali	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Malta	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Marshall Islands	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mauritania	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mauritius	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mexico	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Micronesia	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Moldova	X	X	X	X	.....	X	X	X	X	X	X	.....	.....	.....	.....
Monaco	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mongolia	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Morocco	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mozambique	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Namibia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Nauru	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Nepal	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Netherlands	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
New Zealand	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Nicaragua	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Niger	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....

COMMERCE COUNTRY CHART—Continued

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column	CB column	CB column	NP column	NP column	NS column	NS column	MT column	RS column	RS column	CC column	CC column	CC column	AT column	AT column
	1	2	3	1	2	1	2	1	1	2	1	2	3	1	2
Nigeria	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Norway	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Oman	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
Pakistan	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
Palau	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Panama	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Papua New Guinea	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Paraguay	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Peru	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Philippines	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Poland	X	.....	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Portugal	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Qatar	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Romania	X	.....	.....	.....	.....	X	X	X	X	X	X	X	.....	.....	.....
Russia	X	X	X	.....	.....	X	X	X	X	X	X	X	.....	.....	.....
Rwanda ¹	X	X	.....	X	.....	X	X	X	X	X	X	X	X	.....	.....
St. Kitts & Nevis	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
St. Lucia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
St. Vincent & Grenadines	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
San Marino	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Sao Tome & Principe	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Saudi Arabia	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Senegal	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Serbia & Montenegro	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Seychelles	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Sierra Leone	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Singapore	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Slovakia	X	.....	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Slovenia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Solomon Islands	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Somalia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
South Africa	X	X	.....	.....	.....	X	X	X	X	X	X	.....	X	.....	.....
Spain	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Sri Lanka	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Sudan	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	X	X
Surinam	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Swaziland	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Sweden	X	.....	.....	.....	.....	X	.....	X	X	X	X	.....	X	.....	.....
Switzerland	X	.....	.....	.....	.....	X	.....	X	X	X	X	.....	X	.....	.....
Syria	X	X	X	X	.....	X	X	X	X	X	X	.....	X	X	.....
Taiwan	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Tajikistan	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Tanzania	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Thailand	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Togo	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Tonga	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Trinidad & Tobago	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Tunisia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Turkey	X	X	.....	X	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Turkmenistan	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Tuvalu	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Uganda	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Ukraine	X	X	X	.....	.....	X	X	X	X	X	X	X	.....	.....	.....
United Arab Emirates	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
United Kingdom	X	.....	.....	.....	.....	X	.....	X	X	.....	.....	.....	.....	.....	.....
Uruguay	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Uzbekistan	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Vanuatu	X	X	.....	X	X	X	X	X	X	X	X	.....	X	.....	.....
Vatican City	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Venezuela	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Vietnam	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Western Sahara	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Western Samoa	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Yemen	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Zaire	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Zambia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Zimbabwe	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....

¹ This country is subject to United Nations Sanctions. See part 746 of the EAR for additional OFAC licensing requirements that may apply to your proposed transaction.

² A license is required only for computers controlled by 4A001, 4A002, & 4A003 if the CTP is greater than 10,000 Mtops. A license is NOT required for any other items subject to NS Column 2.

PART 740—[AMENDED]

4. In Supplement Number 1 to Part 740, Country Groups, Country Group A is revised to read as follows:

COUNTRY GROUP A

Country		Missile technology control re- gime	Australia group	Nuclear suppliers group
	[A:1]	[A:2]	[A:3]	[A:4]
Argentina .....	.....	X	X	X
Australia	X	X	X	X
Austria ¹ .....	.....	X	X	X
Belgium	X	X	X	X
Brazil .....	.....	X	.....	.....
Bulgaria .....	.....	.....	.....	X
Canada	X	X	X	X
Czech Republic .....	.....	.....	X	X
Denmark	X	X	X	X
Finland ¹ .....	.....	X	X	X
France	X	X	X	X
Germany	X	X	X	X
Greece	X	X	X	X
Hong Kong ¹ .....	.....	.....	.....	.....
Hungary .....	.....	X	X	X
Iceland .....	.....	X	X	.....
Ireland ¹ .....	.....	X	X	X
Italy	X	X	X	X
Japan	X	X	X	X
Korea, South ¹ .....	.....	.....	X	X
Luxembourg	X	X	X	X
Netherlands	X	X	X	X
New Zealand ¹ .....	.....	X	X	X
Norway	X	X	X	X
Poland .....	.....	.....	X	X
Portugal	X	X	X	X
Romania .....	.....	.....	X	X
Russia .....	.....	X	.....	X
Slovakia .....	.....	.....	X	X
South Africa .....	.....	X	.....	X
Spain	X	X	X	X
Sweden ¹ .....	.....	X	X	X
Switzerland ¹ .....	.....	X	X	X
Turkey	X	.....	.....	.....
United Kingdom	X	X	X	X
United States	X	X	X	X

¹ Cooperating Countries.**PART 770—[AMENDED]**

5. In section 770.2 paragraph (k) is amended by revising the third sentence to read as follows:

§ 770.2 Commodity interpretations.

* * * * *

(k) * * * These chemicals require a license to all countries except Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea (South), Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, and the United Kingdom.

* * * * *

PART 772—[AMENDED]

6. In part 772, the definition of “Australia Group” is revised to read as follows:

PART 772—DEFINITIONS OF TERMS

* * * * *

Australia Group. The members belonging to this group have agreed to adopt controls on dual-use chemicals, i.e., weapons precursors, equipment, and biological microorganisms and related equipment in order to prevent the proliferation of chemical and biological weapons. Member countries as of October 1996 include: Argentina, Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea (South), Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, the United Kingdom, and the United States. See also § 742.2 of the EAR.

* * * * *

PART 774—[AMENDED]

In Supplement No. 1 to part 774, Category 1—Materials, Chemicals, “Microorganisms”, and Toxins, ECCN 1C350 is amended by revising the License Requirement Notes section to read as follows:

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

* * * * *

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 chemicals are not eligible for sample shipments: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856-11-8), Ethylphosphonyl difluoride (C.A.S. #753-98-0), and

Methylphosphonyl difluoride (C.A.S. #676–99–3).

b. Countries Not Eligible: The following countries are not eligible to receive sample shipments: Cuba, Iran, 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 legal purpose unrelated to chemical weapons. However, a sample shipment received under this exclusion remains subject to all General Prohibitions including the end-use restriction described in § 744.4 of the EAR.

d. The exporter is required to submit a quarterly written report for shipments of samples made under this Note 1. The report must be on company letterhead stationery (titled "Report of Sample Shipments of Chemical Precursors" at the top of the first page) and identify the chemical(s), Chemical Abstract Service Registry (C.A.S.) number(s), quantity(ies), the ultimate consignee's name and address, and the date exported. The report must be sent to the U.S. Department of Commerce, Bureau of Export Administration, Room 2705, Washington, DC 20230, 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:

a. A license is required, regardless of the concentrations in the mixture, for the following chemicals: 0-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL) (C.A.S. #57856–11–8), Ethylphosphonyl difluoride (C.A.S. #753–98–0) and Methylphosphonyl difluoride (C.A.S. #676–99–3);

b. A license is required when at least one of the following chemicals constitutes more than 10 percent of the weight of the mixture on a solvent free basis: Arsenic trichloride (C.A.S. #7784–34–1), Benzoic acid (C.A.S. #76–93–7), Diethyl ethylphosphonate (C.A.S. #78–38–6), Diethyl methylphosphonite (C.A.S. #15715–41–0), Diethyl-N,N-dimethylphosphoroamidate (C.A.S. #2404–03–7), N,N-Diisopropyl-beta-

aminoethane thiol (C.A.S. #5842–07–9), N,N-Diisopropyl-2-aminoethyl chloride hydrochloride (C.A.S. #4261–68–1), N,N-Diisopropyl-beta-aminoethanol (C.A.S. #96–80–0), N,N-Diisopropyl-beta-aminoethyl chloride (C.A.S. #96–79–7), Dimethyl ethylphosphonate (C.A.S. #6163–75–3), Dimethyl methylphosphonate (C.A.S. #756–79–6), Ethylphosphonous dichloride [Ethylphosphinyl dichloride] (C.A.S. #1498–40–4), Ethylphosphonous difluoride [Ethylphosphinyl difluoride] (C.A.S. #430–78–4), Ethylphosphonyl dichloride (C.A.S. #1066–50–8), Methylphosphonous dichloride [Methylphosphinyl dichloride] (C.A.S. #676–83–5), Methylphosphonous difluoride [Methylphosphinyl difluoride] (C.A.S. #753–59–3), Methylphosphonyl dichloride (C.A.S. #676–97–1), Pinacolyl alcohol (C.A.S. #464–07–3), 3-Quinuclidinol (C.A.S. #1619–34–7), and Thiodiglycol (C.A.S. #111–48–8); (Related ECCN: 1C995)

c. A license is required when at least one of all other chemicals in the List of Items Controlled constitutes more than 25 percent of the weight of the mixture on a solvent free basis (related ECCN: 1C995); and

d. A license is not required under this entry for mixtures when the controlled chemical is a normal ingredient in consumer goods packaged for retail sale for personal use. Such consumer goods are controlled by ECCN EAR99.

e. Calculation of concentrations of AG-controlled chemicals.

1. Usual Commercial Purposes. In calculating the percentage of an AG controlled chemical in a mixture (solution), any other chemical must be excluded if it was not added for usual commercial purposes, but was added for the sole purpose of circumventing the Export Administration Regulations.

2. "Solvent Free Basis Requirement." When calculating the percentage, by weight, of components in a chemical mixture, you must exclude from the calculation any component of the mixture that acts as a solvent.

3. Solvent—For purposes of this ECCN "A substance capable of dissolving another substance to form a uniformly dispersed mixture (solution)".

- Solvents are liquids at standard temperature and pressure (STP).
- In no instance is an AG controlled chemical considered a "solvent".
- All ingredients of mixtures are expressed in terms of weight.
- The solvent component of the mixture converts it into a solution.

3. **COMPOUNDS:** A license is not required under this entry for chemical compounds created with any chemicals

identified in this ECCN 1C350, unless those compounds are also identified in this entry.

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Dated: February 7, 1997.

Sue E. Eckert,
Assistant Secretary for Export
Administration.

[FR Doc. 97–3490 Filed 2–11–97; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 961206342–6342–01]

RIN 0694–AB46

Revisions to the Commerce Control List: Exports of Mixtures Containing Trace Quantities of Precursor Chemicals; ECCNs 1C350 and 1C995

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the Commerce Control List (CCL) of the Export Administration Regulations (15 CFR parts 730–774) to simplify export controls on mixtures that contain relatively small amounts, "traces", of controlled precursor chemicals.

DATES: This rule is effective February 12, 1997.

FOR FURTHER INFORMATION CONTACT: For questions on foreign policy controls, call Patricia Sefcik, Bureau of Export Administration, Telephone: (202) 482–0707.

For questions of a technical nature on chemical weapon precursors, biological agents, and equipment that can be used to produce chemical and biological weapons agents, call James Seevaratnam, Bureau of Export Administration, Telephone: (202) 482–3343.

SUPPLEMENTARY INFORMATION: Currently, Export Control Classification Number (ECCN) 1C350 on the Commerce Control List (CCL) includes an exemption from controls for mixtures containing certain concentrations of precursor and intermediate chemicals identified by that entry. This exemption is on a solvent-free basis.

This final rule amends the CCL of the Export Administration Regulations (EAR) to implement a new treatment of "trace chemicals" under ECCN 1C350. If all the criteria set forth are met and the relevant General Prohibitions found in