



**Billing Code: 3510-JT-P**

## **DEPARTMENT OF COMMERCE**

### **Bureau of Industry and Security**

#### **15 CFR Parts 734 and 746**

**[Docket No. 230221-0049]**

**RIN 0694-AJ12**

### **Export Control Measures Under the Export Administration Regulations (EAR) to Address Iranian Unmanned Aerial Vehicles (UAVs) and Their Use by the Russian Federation Against Ukraine**

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Export Administrations Regulations (EAR) to impose new export control measures on Iran. These measures address the use of Iranian Unmanned Aerial Vehicles (UAVs) by the Russian Federation (Russia) in its ongoing war against Ukraine, contrary to U.S. national security and foreign policy interests. Although UAVs are also known as Unmanned Aircraft Systems (UASs), for purposes of consistency with the Missile Technology Control Regime (MTCR) they are referred to as UAVs in the EAR. These amendments to the EAR target Iran's supply of UAVs to Russia to enhance Russia's defense industrial base and its military efforts against Ukraine and build on prior EAR amendments, including the addition of Iranian entities to the Entity List as Russian 'military end users.' Specifically, these controls impose license requirements for a subset of EAR99 items that are destined to Iran, regardless of whether a U.S. person is involved in the transaction. Such items are identified by Harmonized

Tariff Schedule (HTS)-6 Codes in a new supplement added to the EAR, which will allow BIS and other relevant U.S. Government agencies to track and quantify these exports. This rule also identifies certain foreign-produced items as subject to the EAR by adding a new foreign direct product (FDP) rule specific to Iran that applies to items in certain categories of the Commerce Control List (CCL) and the EAR99 items identified in this new supplement. This rule similarly revises the EAR's existing Russia/Belarus FDP rule to reference these EAR99 items. Together with a separate rule published in the same issue of the *Federal Register* adding export controls for Russia and Belarus, these changes impose license requirements on additional exports from abroad and reexports to Iran, Russia, and Belarus, with the purpose of degrading the Iranian UAV program and Russia's use of such UAVs against Ukraine.

**DATES:** This rule is effective on February 24, 2023.

**FOR FURTHER INFORMATION CONTACT:** For general questions on this final rule, contact Eileen Albanese, Director, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-0092, E-mail: [rpd2@bis.doc.gov](mailto:rpd2@bis.doc.gov). For emails, include "Iran UAVs-RIN 0694-AJ12" in the subject line.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In response to Russia's February 2022 further invasion of Ukraine, BIS imposed extensive export controls on Russia under the EAR (15 CFR parts 730 through 774) as part of the final rule *Implementation of Sanctions Against Russia Under the Export Administration Regulations (EAR)* (the Russia Sanctions Rule), effective on February 24, 2022, and published on March 3, 2022 (87 FR 12226). Since the publication of the Russia Sanctions Rule, BIS has published several other final rules imposing stringent export controls on Russia. The new restrictions included two new Russia (and Belarus)-specific Foreign-Direct Product rules. See § 734.9(f)(1)(i) and (ii). U.S. allies have implemented substantially similar measures against

Russia. The BIS actions reflect the U.S. Government's position that Russia's further invasion of Ukraine and Belarus' complicity in such invasion flagrantly violated international law, is contrary to U.S. national security and foreign policy interests, and undermines global order, peace, and security.

Consistent with the U.S. Government's and its allies' commitment to further strengthening the impact of export control measures in response to Russia's aggression, this rule amends the EAR to impose new controls to address the use of Iranian UAVs in ways that are contrary to U.S. national security and foreign policy interests, specifically, by Russia against Ukraine. Iran has been supplying Iranian UAVs to Russia to enhance Russia's defense industrial base in the country's ongoing military assault in Ukraine. BIS and U.S. Government allies and partners have taken additional actions to restrict Iran's ability to obtain "items" required to manufacture UAVs, such as the blocking restrictions put in place by the European Union (EU) on identified Iranian drone companies and export restrictions on relevant low-level items where there is knowledge the items are ultimately destined to Russia. On January 31, 2023, BIS added seven Iranian entities involved in the manufacture of UAVs to the Entity List as Russian 'Military End Users,' thereby subjecting them to some of the most comprehensive export restrictions under the EAR, including on foreign-produced items under the Russia/Belarus-Military End User FDP rule (see § 734.9(g) of the EAR). 88 FR 6621 (Feb. 1, 2023). Recent investigations indicate that pieces of Iranian UAVs have been found on the battlefield in Ukraine, in some cases with U.S.-branded "parts" and "components."

Iran is already subject to comprehensive export restrictions under U.S. law, including pursuant to § 746.7 of the EAR. This rule builds on recent efforts to target Russian activity involving Iran-supplied UAVs by imposing new destination-based controls on Iran. These new controls impose export and reexport license requirements on a subset of EAR99 items, *i.e.*, items not specified on the Commerce Control List (supplement no. 1 to part 774 of the EAR) if destined to Iran, regardless of whether a U.S. person, is involved in the transaction. Such items

are identified by HTS-6 Codes in a new supplement for Iran that is being added to the EAR by this rule and require a license for exports and reexports to Iran. This rule also adds a new FDP rule specific to Iran for items in certain categories of the CCL. The new FDP rule also covers certain other items identified in this new supplement to render additional foreign-produced items subject to the EAR. This rule similarly revises the existing Russia/Belarus FDP rule to reference these foreign-produced items to ensure that the items described in this supplement will be similarly controlled to Russia and Belarus when they are also the “direct product” of certain U.S.-origin “technology” or “software,” or are produced by a plant or a ‘major component’ of a plant which is itself the “direct product” of certain U.S.-origin “technology” or “software.” Together, with a separate rule published in the same issue of the *Federal Register* adding export controls for Russia and Belarus, these changes impose license requirements on additional exports from abroad and reexports to Iran, Russia, and Belarus, with the purpose of substantially degrading the Iranian UAV program and Russia’s use of such UAVs against Ukraine. Some of the items added to supplement no. 7 to part 746 already required a license for exports, reexports, and transfers (in-country) to Russia and Belarus prior to this rule because they were already identified on supplement no. 4 or 5 to part 746. The separate rule published in the same issue of the *Federal Register* is adding the remaining items added by this rule to supplement no. 7 to part 746 to supplement no. 4 or 5 to impose a license requirement for exports and reexports and transfers within Russia and Belarus and to align those other controls with U.S. allies.

## **II. Overview of New Controls**

For the reasons stated above, this rule takes four actions targeting Iranian UAVs.

First, BIS is creating a list of items used in Iranian UAVs. This rule identifies these items using HTS-6 codes in a new supplement no. 7 to part 746 of the EAR.

Second, this rule, in conjunction with a separate rule in the same issue of the *Federal Register* adding export controls for Russia and Belarus, expands the Russia/Belarus FDP rule and

adds an Iran FDP rule to ensure that foreign-produced items identified in new supplement no. 7 to part 746 are subject to the EAR when they are destined to Russia, Belarus, or Iran, and that certain foreign-produced items specified in any ECCN in Categories 3 through 5 or 7 on the CCL are subject to the EAR when they are destined for Iran.

Third, this rule expands the license requirements for Iran in § 746.7 of the EAR to include requirements for exports and reexports of items identified in new supplement no. 7 to part 746 (including foreign-made items subject to the EAR under the new Iran FDP rule described in § 734.9(j)).

Fourth, this rule exempts countries identified in supplement no. 3 to part 746 (Countries Excluded from Certain License Requirements, pursuant to § 746.8), from some of the new controls on foreign-produced items described in new supplement no. 7 to part 746.

### **III. Amendments to the Export Administration Regulations (EAR)**

This rule imposes new export controls on Iran in connection with its UAV program in order to degrade Iran's ability to support Russia's military aggression in Ukraine, as described below:

*A. Imposition of additional license requirements for Iran covering items used in UAVs that are identified by HTS-6 codes in new supplement no. 7 to part 746.*

In part 746, this rule adds a new supplement no. 7 to part 746 - Items that Require a License under § 746.7 When Destined for Iran and under § 746.8 When Destined to Russia or Belarus. This rule adds these items because they are useful in Iran's UAV program and Russia has used such UAVs in its further invasion of Ukraine. New supplement no. 7 to part 746 consists of two columns: HTS-6 Code and the HTS Description. This rule adds twelve entries to the new supplement. These HTS-6 codes cover a greater range of items than those described in

existing Export Control Classification Numbers (ECCNs) on the CCL, and will consequently capture items that are designated EAR99 (*i.e.*, not specifically described on the CCL).

This rule adds a paragraph (a) to the introductory text of the supplement to explain the origin of the HTS-6 codes and descriptions in this list, *i.e.*, the United States International Trade Commission (USITC's) HTS of the United States (2023). Similar to introductory text set forth in the supplement no. 4 to part 746, this paragraph specifies that the items described in supplement no. 7 to part 746 include any modified or designed "components," "parts," "accessories," and "attachments" therefor to the items listed in the supplement regardless of the HTS Code or HTS Description of the "components," "parts," "accessories," and "attachments," except that any "part" or minor "component" that is a fastener (*e.g.*, screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, or solder is excluded. New paragraph (a) also advises exporters with general questions on HTS codes to contact an import specialist at U.S. Customs and Border Protection at the nearest port of export. Exporters with questions on how to classify an item on the CCL or whether a particular "component," "part," accessory," or "attachment" therefor is "modified or designed" for an item listed in supplement no. 7 to part 746 should contact BIS.

This rule also adds a paragraph (b) to the introductory text of the supplement to specify that the items identified in the HTS-6 Code column of supplement no. 7 to part 746 are subject to the license requirements under §§ 746.7(a)(1)(ii) and (iii) and 746.8(a)(2). Paragraph (b) clarifies that the HTS Description column is intended to assist exporters with their Automated Export System (AES) filing responsibilities. BIS clarifies here that a subjective interpretation of the HTS Description does not determine whether an item is subject to the license requirements under §§ 746.7(a)(1)(ii) and (iii) and 746.8(a)(2). If an item is classified under any 10-digit Schedule B, or 8-digit HTS code beginning with the HTS-6 Code indicated in supplement no. 7 to part 746, then it is subject to the license requirements under §§ 746.7(a)(1)(ii) and (iii) and 746.8(a)(2), regardless of how the HTS Description is interpreted. For example, if an exporter,

reexporter, or transferor “knows” their item is classified under an HTS-6 Code in supplement no. 7 to part 746, but disagrees that their item matches the HTS Description in supplement no. 7 to part 746, in that scenario, then the HTS-6 Code is still controlling for determining the license requirement under §§ 746.7(a)(1)(ii) and (iii) and 746.8(a)(2), even if someone believes their item could potentially meet the description of more than one HTS Description. As noted above, the HTS Description is intended to assist exporters with their AES filing responsibilities, but is not determinative for whether an item is identified under supplement no. 7 to part 746.

The use of the HTS-6 Code to identify the license requirements for these items will ease compliance burdens on exporters and reexporters because the HTS-6 Code is more precise than the HTS Description. The use of the HTS-6 Code for identifying the license requirement will also help to enhance the enforcement of these items because the HTS-6 Code will be easier to identify in the Electronic Export Information (EEI) in AES.

BIS estimates the addition of supplement no. 7 to part 746 will not result in any additional license applications submitted to BIS annually, because the export and reexport to Iran of items newly subject to the EAR will be subject to the regulatory authority of the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) to the extent the export or reexport is prohibited by 31 CFR 560.204 or 560.205 of the Iranian Transactions and Sanctions Regulations, 31 CFR part 560 (ITSR); such exports and reexports therefore will be subject to the licensing jurisdiction of OFAC and eligible for general or specific licenses issued pursuant to the ITSR for purposes of these destination-based license requirements for Iran. Any export, reexport, or transfer (in-country) subject to a part 744 end-use or end-user license requirements will still require a separate authorization from BIS.

*B. Expansion of Russia/Belarus FDP rule and addition of new Iran FDP rule for items identified in new supplement no. 7 to part 746.*

This rule makes two changes to § 734.9 Foreign-Direct Product (FDP) Rules related to the new supplement no. 7 to part 746.

1. *Expansion of Russia/Belarus FDP rule.* This rule revises the existing Russia/Belarus FDP rule in paragraphs (f)(1)(i)(B) and (f)(1)(ii)(B) of § 734.9 to reference new supplement no. 7 to part 746, which expands the product scope of the Russia/Belarus FDP rule to include items identified in new supplement no. 7 to part 746, even if such items are designated EAR99 when they meet the FDP criteria under paragraph (f). The items this rule adds to supplement no. 7 to part 746 includes “parts” and “components” that are used in UAVs that have been found on the battlefield in Ukraine. As detailed above, Russia has been relying on Iran’s UAVs for use in strikes against Ukraine. Many of the “parts” and “components” found in such UAVs are branded as U.S. or U.S.-origin, including by referring to U.S. manufacturers. However, such branding does not definitively indicate that such items were produced in the United States. Thus, expanding the foreign direct product rule to cover these items will help ensure that such products are not available for shipment to Iran for use in the manufacture of UAVs that are being used by Russia in Ukraine.

This rule also revises paragraph (f)(1)(i)(B) and (f)(1)(ii)(B) of § 734.9 to remove the term “identified” and adds in its place the phrase “specified in any ECCN on the CCL.” This rule also removes the phrase “or is not designated EAR99,” because the phrase is no longer needed with the other revisions made to these two paragraphs. These changes will align the text more closely with the same type of text used in the other FDP rules in § 734.9.

This rule also revises paragraph (f)(2) of § 734.9 to remove the phrase “not designated EAR99” and adding in its place the phrase “specified in any ECCN on the CCL or in supplement no. 6 or 7.” The revision to add “specified in any ECCN” is a clarification and the addition of “supplement no. 6 or 7” is a conforming change to reflect the current scope of the Russia/Belarus FDP rule.



BIS estimates these changes to § 734.9(f) will not result in any additional license applications submitted to BIS annually, because even though this rule will add items subject to the EAR, the license review policy of denial generally discourages applicants from submitting licenses.

*2. Addition of new Iran FDP rule.* This rule adds a new foreign direct product rule under paragraph (j) (Iran FDP rule) of § 734.9 of the EAR. This Iran FDP rule is generally modeled after the Russia/Belarus FDP rule in § 734.9(f), but with slight differences to make the Iran FDP rule more narrowly targeted at Iran’s UAV activities of concern. The Iran FDP rule establishes jurisdiction over foreign-produced items that are the direct product of U.S.-origin software or technology classified in Categories 3 through 5 and 7 of the CCL, or are produced by a plant or major component of a plant which itself is the “direct product” of such software or technology. The product scope is limited to foreign-produced items identified in supplement no. 7 to part 746—including items designated EAR99—and to items classified in any ECCN in Categories 3 through 5 or 7 of the CCL.

As further described below, transactions from or within countries identified in supplement no. 3 to part 746 are exempted from the license requirements for items subject to this new FDP rule.

BIS estimates that the addition of paragraph (j) to § 734.9 will result in an additional five license applications submitted to BIS annually.

*C. Expansion of Iran controls under part 746 to impose license requirements for items identified in new supplement no. 7 to part 746 and for foreign-produced items made subject to the EAR under the new Iran FDP rule.*

In § 746.7 – Iran, this rule revises the fourth sentence of the introductory text to the section to add a reference to new licensing requirement paragraphs in § 746.7. This rule also revises paragraph (a) (License Requirements) for Iran by redesignating the existing text of paragraph (a)(1) (apart from the paragraph (a)(1) heading) as new paragraph (a)(1)(i) (CCL-based license requirements). This rule adds a new license requirement to § 746.7 under new paragraph (a)(1)(ii) (Supplement no. 7 to part 746 of the EAR license requirements) for export or reexport of items identified in new supplement no. 7 to part 746, and adds a new license requirement for the export from abroad or reexport of foreign-produced items subject to the EAR because of the new Iran FDP rule under new paragraph (a)(1)(iii). This rule also adds new paragraph (a)(1)(iv) to exempt certain exports from abroad and reexports from countries identified in supplement no. 3 to part 746 from the license requirement in paragraph (a)(1)(iii) and adds new paragraph (a)(1)(v) to exempt items designated EAR99 and identified in supplement no. 7 to part 746 from consideration as U.S.-origin controlled content when incorporated into a foreign-made item exported or reexported from a country identified in supplement no. 3 to part 746. The exemptions in paragraphs (a)(1)(iv) and (v) are similar in regulatory construction to those that apply to the same countries for purposes of export controls on Russia and Belarus in § 746.8 of the EAR.

As a conforming change, this final rule also revises supplement no. 2 to part 734 - Guidelines for *De Minimis* Rules, by revising the third sentence of paragraph (a)(1), which specifies that exporters must use the license requirements in part 746 for identifying U.S.-origin controlled content for *de minimis* purposes (excluding U.S.-origin content that meets the criteria in § 746.8(a)(5)). This final rule revises this parenthetical phrase to specify that U.S.-origin controlled content that meets the criteria in § 746.7(a)(1)(v) is also excluded from *de minimis* calculations when identifying controlled U.S.-origin content.

As currently stated in § 746.7 of the EAR, and as applied to the new license requirements added by this rule, if a transaction is authorized by the U.S. Department of the Treasury, Office

of Foreign Assets Control (OFAC), separate authorization from BIS is not required. However, BIS authorization will generally be required for transactions that require a license from BIS under the new Iran license requirements added by this rule but that are not subject to the ITSR, unless an exemption applies (*e.g.*, exports of foreign-produced items subject to the new Iran FDP rule that do not involve U.S. persons and that would not qualify for an OFAC general license if subject to the ITSR).

BIS adds a sentence to the end of new paragraph (a)(1)(iii) under § 746.7 to specify that reexports and exports from abroad of foreign-produced items that would have otherwise met all of the terms and conditions of an OFAC general license if the transactions had been subject to OFAC license requirements are exempt from BIS license requirements in paragraph (a)(1)(iii). This exemption was added because of the potential for the Iran FDP rule to reach certain items that may be used in applications other than to develop or produce Iran UAVs, such as use in medical devices or communications devices authorized for export or reexport to Iran under the ITSR. To the extent that foreign-produced items subject to the EAR under the Iran FDP rule fall outside the scope of OFAC jurisdiction, BIS will treat transactions involving such foreign-produced items consistently with comparable transactions that are eligible for OFAC general licenses if they were conducted by U.S. persons or involved reexports of items exported from the United States. Questions about whether a transaction is exempt because it is comparable to a transaction that would be authorized if subject to the ITSR should be directed to OFAC.

*D. Conforming change to expand the scope of supplement no. 3 to part 746 to reflect allied countries' exclusion from the new Iran FDP rule.*

In supplement no. 3 to part 746 – Countries Excluded from Certain License Requirements, pursuant to § 746.8, this rule revises the heading of the supplement to add a reference to the Iran export controls section under § 746.7. This rule also adds a new second sentence to the introductory text of the supplement to specify that the countries in the supplement are excluded from certain requirements related to Iran in § 746.7 of the EAR, as described in § 746.7(a)(1)(iv) and (v).

#### *Savings Clause*

Shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on February 24, 2023, pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR), provided the export, reexport, or transfer (in-country) is completed no later than on March 27, 2023.

#### **Export Control Reform Act of 2018**

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (codified, as amended, at 50 U.S.C. sections 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule. To the extent it applies to certain activities that are the subject of this rule, the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (codified, as amended, at 22 U.S.C. sections 7201-7211) also serves as authority for this rule.

#### **Rulemaking Requirements**

1. This final rule is not a “significant regulatory action” because it “pertain[s]” to a “military or foreign affairs function of the United States” under sec. 3(d)(2) of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves the following OMB-approved collections of information subject to the PRA:

- 0694-0088, “Multi-Purpose Application,” which carries a burden hour estimate of 29.4 minutes for a manual or electronic submission;
- 0694-0096 “Five Year Records Retention Period,” which carries a burden hour estimate of less than 1 minute; and
- 0607-0152 “Automated Export System (AES) Program,” which carries a burden hour estimate of 3 minutes per electronic submission.

BIS estimates that these new controls on Iran under the EAR will result in an increase of five license applications submitted annually to BIS. However, the additional burden falls within the existing estimates currently associated with these control numbers. Additional information regarding these collections of information – including all background materials – can be found at <https://www.reginfo.gov/public/do/PRAMain> by using the search function to enter either the title of the collection or the OMB Control Number.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821) (ECRA), this action is exempt from the Administrative Procedure Act (APA) (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date. While section 1762 of ECRA provides sufficient authority for such an exemption, this action is also independently exempt from these APA requirements because it involves a military or foreign affairs function of the United States (5. U.S.C. 553(a)(1)).

5. 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 not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

## **List of Subjects**

### **15 CFR Part 734**

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

### **15 CFR Part 746**

Exports, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 734 and 746 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

## PART 734 – SCOPE OF THE EXPORT ADMINISTRATION REGULATIONS

1. The authority citation for 15 CFR part 734 continues to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 8, 2022, 87 FR 68015 (November 10, 2022).

2. Section 734.9 is amended by revising paragraphs (f)(1)(i)(B), (f)(1)(ii)(B), and (f)(2) and adding paragraph (j) to read as follows:

### § 734.9 Foreign-Direct Product (FDP) Rules.

\* \* \* \*

(f) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) The foreign-produced item is specified in any ECCN on the CCL or in supplement no. 6 or 7 to part 746 of the EAR; or

(ii) \* \* \*

(B) The foreign-produced item is specified in any ECCN on the CCL or in supplement no. 6 or 7 to part 746 of the EAR.

(2) *Destination scope of the Russia/Belarus FDP rule.* A foreign-produced item meets the

destination scope of this paragraph (f)(2) if there is “knowledge” that the foreign-produced item is destined to Russia or Belarus or will be incorporated into or used in the “production” or “development” of any “part,” “component,” or “equipment” specified in any ECCN on the CCL or in supplement no. 6 or 7 to part 746 of the EAR and produced in or destined to Russia or Belarus.

\* \* \* \* \*

(j) *Iran FDP rule.* A foreign-produced item is subject to the EAR if it meets both the product scope in paragraph (j)(1) of this section and the destination scope in paragraph (j)(2) of this section. See § 746.7 of the EAR for license requirements, license review policy, and license exceptions applicable to foreign-produced items that are subject to the EAR pursuant to this paragraph (j).

(1) *Product scope of Iran FDP rule.* The product scope applies if a foreign-produced item meets the conditions of either paragraph (j)(1)(i) or (ii) of this section.

(i) *“Direct product” of “technology” or “software.”* A foreign-produced item meets the product scope of this paragraph (j)(1)(i) if the foreign-produced item meets both of the following conditions:

(A) The foreign-produced item is the “direct product” of U.S.-origin “technology” or “software” subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3 through 5 or 7 of the CCL; and

(B) The foreign-produced item is identified in supplement no. 7 to part 746 of the EAR or is specified in any ECCN on the CCL in Categories 3 through 5 or 7 of the CCL;  
or



(ii) *Product of a complete plant or 'major component' of a plant that is a “direct product.”* A foreign-produced item meets the product scope of this paragraph (j)(1)(ii) if it meets both of the following conditions:

(A) The foreign-produced item is produced by any plant or 'major component' of a plant that is located outside the United States, when the plant or 'major component' of a plant, whether made in the United States or a foreign country, itself is a “direct product” of U.S.-origin “technology” or “software” subject to the EAR that is specified in any ECCN in product groups D or E in Categories 3 through 5 or 7 of the CCL; and

(B) The foreign-produced item is identified in supplement no. 7 to part 746 of the EAR or is specified in any ECCN on the CCL in Categories 3 through 5 or 7 of the CCL.

(2) *Destination scope of the Iran FDP rule.* A foreign-produced item meets the destination scope of this paragraph (j)(2) if there is “knowledge” that the foreign-produced item is destined to Iran or will be incorporated into or used in the “production” or “development” of any “part,” “component,” or “equipment,” including any modified or designed “components,” “parts,” “accessories,” and “attachments” therefor, identified in supplement no. 7 to part 746 of the EAR or is specified in any ECCN on the CCL in Categories 3 through 5 or 7 of the CCL that is located in or destined to Iran.

3. Supplement no. 2 to part 734 is amended by revising the third sentence of paragraph (a)(1) to read as follows:

**Supplement No. 2 to Part 734 - Guidelines for *De Minimis* Rules**

(a) \* \* \*

(1) \* \* \* For purposes of identifying U.S.-origin controlled content, you should consult the Commerce Country Chart in supplement no. 1 to part 738 of the EAR and controls described in part 746 of the EAR (excluding U.S.-origin content that meets the criteria in §§ 746.7(a)(1)(v) and 746.8(a)(5)). \* \* \*

\* \* \* \* \*

## **PART 746 – EMBARGOES AND OTHER SPECIAL CONTROLS**

4. The authority citation for 15 CFR part 746 is revised to read as follows:

**Authority:** 50 U.S.C. 4801-4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108-11, 117 Stat. 559; 22 U.S.C. 2151 note; 22 U.S.C. 6004; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Presidential Determination 2003-23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Presidential Determination 2007-7, 72 FR 1899, 3 CFR, 2006 Comp., p. 325; Notice of May 9, 2022, 87 FR 28749 (May 10, 2022).

5. Section 746.7 is amended by revising the fourth sentence of the introductory text and paragraph (a)(1) to read as follows:

### **§ 746.7 Iran.**

\* \* \* In addition, BIS maintains licensing requirements on exports and reexports to or from Iran under the EAR as described in paragraphs (a)(1)(i) through (iii) of this section or elsewhere in the EAR (*see, e.g.*, § 742.8).

(a) \* \* \*

(1) *EAR license requirements--(i) CCL-based license requirements.* A license is required under the EAR to export or reexport to Iran any item on the CCL containing a CB Column 1, CB Column 2, CB Column 3, NP Column 1, NP Column 2, NS Column 1, NS Column 2, MT Column 1, RS Column 1, RS Column 2, CC Column 1, CC Column 2, CC Column 3, AT Column 1 or AT Column 2 in the Country Chart Column of the License Requirements section of an ECCN or classified under ECCNs 0A503, 0A980, 0A982, 0A983, 0E982, 1C355, 1C395, 1C980, 1C982, 1C983, 1C984, 2A994, 2D994, 2E994, 5A001.f.1, 5A980, 5D001 (for 5A001.f.1 or for 5E001.a (for 5A001.f.1, or for 5D001.a (for 5A001.f.1))), 5D980, 5E001.a (for 5A001.f.1, or for 5D001.a (for 5A001.f.1)) or 5E980.

(ii) *Supplement no. 7 to part 746 of the EAR license requirements.* A license is required under the EAR to export or reexport to Iran any item identified in supplement no. 7 to part 746 of the EAR when such item is subject to the EAR for any reason other than § 734.9(j) of the EAR.

(iii) *Foreign-produced items subject to the EAR under § 734.9(j) of the EAR (Iran FDP rule).* Except as described in paragraph (a)(1)(iv) of this section, a license is required to reexport or export from abroad to Iran any foreign-produced item subject to the EAR under the Iran FDP rule that is located in or destined to Iran. A Department of Commerce license is not required for transactions described in this paragraph (a)(1)(iii) that would have otherwise met all of the terms and conditions of an OFAC general license if the transactions had been subject to OFAC jurisdiction.

(iv) *Exclusion from license requirements under paragraph (a)(1)(iii) of this section.* Exports from abroad or reexports from the countries described in supplement no. 3 to this part from the countries described in supplement no. 3 are not subject to the license requirements

described in paragraph (a)(1)(iii) of this section, unless a limit to the exclusion is described in the “Scope” column in supplement no. 3.

(v) *Exclusion from scope of U.S.-origin controlled content under paragraph (a)(1) of this section.* For purposes of determining U.S.-origin controlled content under supplement no. 2 to part 734 of the EAR when making a *de minimis* calculation for reexports and exports from a country described in supplement no. 3 to this part to Iran, the license requirements in paragraph (a)(1)(ii) of this section are not used to determine controlled U.S.-origin content in a foreign-made item, provided the U.S.-origin content is identified in supplement no. 7 to this part and is designated EAR99 and is not otherwise excluded from the applicable “Scope” column in supplement no. 3 to this part.

\* \* \* \* \*

6. Supplement no. 3 to part 746 is amended by:

- a. Revising the heading of the supplement; and
- b. Adding a sentence after the first sentence of the introductory text.

The revision and addition read as follows:

**Supplement No. 3 to Part 746 – Countries Excluded from Certain License Requirements of §§ 746.7 and 746.8**

\* \* \* In addition, these countries are excluded from the license requirements related to Iran in § 746.7, as described in § 746.7(a)(1)(iv) and (v). \* \* \*

\* \* \* \* \*

7. Supplement no. 7 to part 746 is added to read as follows:

**Supplement No. 7 to Part 746 – Items that Require a License under § 746.7 when Destined to Iran and under § 746.8 when destined to Russia or Belarus.**

The items identified in this supplement are a subset of items that are identified in specific Export Control Classification Numbers or designated as EAR99 under the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR. Also see paragraph (f) of § 734.9 of the EAR for the Russia/Belarus Foreign Direct Product (FDP) rule and paragraph (j) for the Iran FDP rule. Both of these FDP rules include the items identified in this supplement as part of the criteria for what foreign made items are subject to the EAR.

(a) The source for the Harmonized Tariff Schedule (HTS)-6 codes and descriptions in this list is the United States International Trade Commission (USITC's) Harmonized Tariff Schedule of the United States (2023). The items described in this supplement include any modified or designed "components," "parts," "accessories," and "attachments" therefor regardless of the HTS Code or HTS Description of the "components," "parts," "accessories," and "attachments," apart from any "part" or minor "component" that is a fastener (*e.g.*, screw, bolt, nut, nut plate, stud, insert, clip, rivet, pin), washer, spacer, insulator, grommet, bushing, spring, wire, or solder. This supplement includes two columns consisting of the HTS Code and HTS Description to assist exporters, reexporters, and transferors in identifying the products in this supplement. For information on HTS codes in general, you may contact a local import specialist at U.S. Customs and Border Protection at the nearest port.

(b) The items classified under the provisions identified in the HTS-6 Code column of this supplement are subject to the license requirements under §§ 746.7(a)(1)(ii) and (iii) and 746.8(a)(2). The other column – HTS Description – is intended to assist exporters with their AES filing responsibilities. The license requirements extend to HTS Codes at the 8 and 10 digit level

when those HTS-8 and HTS-10 codes begin with the HTS-6 Codes as the first 6 numbers of those longer HS Codes.

<b>HTS-6 Codes</b>	<b>HTS Description</b>
840710	Aircraft spark-ignition reciprocating or rotary internal combustion piston engines
840890	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines), NESOI
840910	Parts for spark-ignition or rotary internal combustion piston engines or compression-ignition internal combustion piston engines, for aircraft
847150	Processing units other than those of subheading 8471.41 or 8471.49, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units
851762	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus
852691	Radio navigational aid apparatus
853221	Tantalum capacitors
853224	Fixed capacitors NESOI, multilayer ceramic dielectric
854231	Processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits
854232	Memories
854233	Amplifiers
854239	Other electronic integrated circuits

**Thea D. Rozman Kendler,**

*Assistant Secretary for Export Administration.*