

15 CFR 748.11 - Statement by Ultimate Consignee and Purchaser.

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(a) Exceptions to completing a Statement by Ultimate Consignee and Purchaser. A Statement by the Ultimate Consignee and/or Purchaser involved in a transaction must be completed unless: (1) An International Import Certificate, a People's Republic of China End-User Certificate, an Indian Import Certificate, or a Bulgarian, Czech, Hungarian, Polish, Romanian or Slovak Import Certificate is required in support of the license application; (2) The applicant is the same person as the ultimate consignee, provided the required statements are contained in Block 24 on the license application. This exemption does not apply where the applicant and consignee are separate entities, such as parent and subsidiary, or affiliated or associated firms; (3) The application is valued at \$5000 or less, and is not part of a larger transaction; or (4) The transaction meets one of the exemptions stated in 748.9(a) of this part.

(b) Submission of the Statement by Ultimate Consignee and Purchaser. A copy of the statement must be submitted with your license application if the country of ultimate destination is listed in either Country Group D:2, D:3, or D:4 (See Supplement No. 1 to part 740 of the EAR). The copy submitted by the applicant must be of sufficient quality to ensure all assertions made on the statement are legible and that the signatures are sufficiently legible to permit identification of the signature as that of the signer. The applicant must receive the manually-signed original within 60 days from the date the original is signed by the ultimate consignee. The applicant must, upon receipt, retain the manually-signed original, and both the ultimate consignee and purchaser should retain a copy of the statement in accordance with the recordkeeping provisions contained in part 762 of the EAR.

(c) Form or letter. The ultimate consignee and purchaser must complete either a statement on company letterhead in accordance with paragraph (e) of this section or Form BIS711, Statement by Ultimate Consignee and Purchaser. If the consignee and purchaser elect to complete the statement on letterhead and both the ultimate consignee and purchaser are the same entity, only one statement is necessary. If the ultimate consignee and purchaser are separate entities, separate statements must be prepared and signed. If the ultimate consignee and purchaser elects to complete Form BIS711, only one Form BIS711 (containing the signatures of the ultimate consignee and purchaser) need be completed. Whether your ultimate consignee and purchaser sign a written statement or complete Form BIS711, the following constraints apply: (1) Responsible officials representing the ultimate consignee and purchaser must sign the statement. Responsible official is defined as someone with personal knowledge of the information included in the statement, and authority to bind the ultimate consignee or purchaser for whom they sign, and who has the power and authority to control the use and disposition of the licensed items.

(2) The authority to sign the statement may not be delegated to any person (agent, employee, or other) whose authority to sign is not inherent in his or her official position with the ultimate consignee or purchaser for whom he or she signs. The signing official may be located in the U.S. or in a foreign country. The official title of the person signing the statement must also be included.

(3) The consignee and/or purchaser must submit information that is true and correct to the best of their knowledge and must promptly send a new statement to the applicant if changes in the facts or intentions contained in their statement(s) occur after the statement(s) have been forwarded to the applicant. Once a statement has been signed, no corrections, additions, or alterations may be made. If a signed statement is incomplete or incorrect in any respect, a new statement must be prepared, signed and forwarded to the applicant.

(d) Instructions for completing Form BIS711. Instructions on completing Form BIS711 are contained in Supplement No. 3 to this part. The ultimate consignee and purchaser may sign a legible copy of Form BIS711. It is not necessary to require your ultimate consignee and purchaser sign an original Form BIS711, provided all information contained on the copy is legible.

(e) Instructions for completing the statement on letterhead. Information in response to each of the following criteria must be included in the statement. If any information is unknown, that fact should be disclosed in the statement. Preprinted information supplied on the statement, including the name, address, or nature of business of the ultimate consignee or purchaser appearing on the letterhead or order form is acceptable but will not constitute evidence of either the signer's identity, the country of ultimate destination, or end-use of the items described in the license application.

(1) Paragraph 1. One of the following certifications must be included depending on whether the statement is proffered in support of a single license application or multiple license applications: (i) Single. This statement is to be considered part of a license application submitted by [name and address of applicant].

(ii) Multiple. This statement is to be considered a part of every license application submitted by [name and address of applicant] until two years from the date this statement is signed.

(2) Paragraph 2. One or more of the following certifications must be included. Note that if any of the facts related to the following statements are unknown, this must be clearly stated.

(i) The items for which a license application will be filed by [name of applicant] will be used by us as capital equipment in the form in which received in a manufacturing process in [name of country] and will not be reexported or incorporated into an end product.

(ii) The items for which a license application will be filed by [name of applicant] will be processed or incorporated by us into the following product(s) [list products] to be manufactured in [name of country] for distribution in [list name of country or countries].

(iii) The items for which a license application will be filed by [name of applicant] will be resold by us in the form in which received for use or consumption in [name of country].

(iv) The items for which a license application will be filed by [name of applicant] will be reexported by us in the form in which received to [name of country or countries].

(v) The items received from [name of applicant] will be [describe use of the items fully].

(3) Paragraph 3. The following two certifications must be included: (i) The nature of our business is [possible choices include; broker, distributor, fabricator, manufacturer, wholesaler, retailer, value added reseller, original equipment manufacturer, etc.].

(ii) Our business relationship with [name of applicant] is [possible choices include; contractual, franchise, distributor, wholesaler, continuing and regular individual business, etc.] and we have had this business relationship for [number of years].

(4) Paragraph 4. The final paragraph must include all of the following certifications: (i) We certify that all of the facts contained in this statement are true and correct to the best of our knowledge and we do not know of any additional facts that are inconsistent with the above statements. We shall promptly send a replacement statement to [name of the applicant] disclosing any material change of facts or intentions described in this statement that occur after this statement has been prepared and forwarded to [name of applicant]. We acknowledge that the making of any false statement or concealment of any material fact in connection with this statement may result in imprisonment or fine, or both, and denial, in whole or in part, of participation in U.S. exports or reexports.

(ii) Except as specifically authorized by the U.S. Export Administration Regulations, or by written approval from the Bureau of Industry and Security, we will not reexport, resell, or otherwise dispose of any items approved on a license supported by this statement: (A) To any country not approved for export as brought to our attention by the exporter; or (B) To any person if there is reason to believe that it will result directly or indirectly in disposition of the items contrary to the representations made in this statement or contrary to the U.S. Export Administration Regulations.

(iii) We understand that acceptance of this statement as a support document cannot be construed as an authorization by BIS to reexport the items in the form in which received even though we may have indicated the intention to reexport, and that authorization to reexport is not granted in an export license on the basis of information provided in the statement, but as a result of a specific request in a license application.

Read more: <http://cfr.vlex.com/vid/11-statement-ultimate-consignee-purchaser-19634535#ixzz1Nwh5q7S0>