

## US

### BIS Amends Regulations Governing Export and Reexport of Geospatial Imaging Software

On January 6, 2020, the Department of Commerce's Bureau of Industry and Security (BIS) [published](#) in the *Federal Register* (85 Fed. Reg. 459) an interim final rule that amends the Export Administration Regulations (EAR) to classify software that is specially designed to automate the analysis of geospatial imagery under ECCN 0D521. ECCN 0D521 is the software heading for the 0Y521 series of ECCNs. The measure imposes a license requirement for the export and reexport of those items to all destinations, except Canada, for RS Column 1 reasons. The only license exception available to items classified within the 0Y521 series is license exception GOV, which permits an item to be exported, reexported, or transferred (in-country) to a department or agency of the US government. BIS added the software to the 0Y521 series of ECCNs following a determination by the Department of Commerce, with the concurrence of the Departments of Defense and State, that the items may provide a significant military or intelligence advantage to the US, or because foreign policy reasons justify control, pursuant to ECCN 0Y521 procedures.

The 0Y521 series of ECCNs is a temporary holding classification that only lasts one year from the date of publication in the *Federal Register* of the final rule. However, the 0Y521 classification can be extended in accordance with certain procedures and provided that the US government submits a proposal to the relevant multilateral regimes to obtain multilateral controls over the item. The item temporarily classified within the 0Y521 series may be reclassified to a permanent ECCN before the temporary classification expires, if appropriate. However, if the temporary classification expires and the item has not been reclassified to a permanent ECCN, the item is designated EAR99. If desired, see [our previous publication](#) for additional information.

### Department of State Amends the ITAR

The Department of State [published](#) in the *Federal Register* a new interim final rule and request for comment on amendments to the International Traffic in Arms Regulations (ITAR) (84 Fed. Reg. 70887). The new interim final rule amends the ITAR by creating a definition of "activities that are not exports, reexports, retransfers, or temporary imports" by combining existing text from the regulations with new text describing secured unclassified technical data. The new definition includes the following activities: "Launching items into space, providing technical data to US persons within the US or within a single country abroad, and moving a defense article between the states, possessions, and territories of the US."

The new definition also clarifies that "electronic transmission and storage of properly secured unclassified technical data via foreign communications infrastructure does not constitute an export." Finally, the new amendments to the ITAR provide definitions for "access information" and to revise the definition for "release" to provide clarification on the provision of access information to an unauthorized foreign person.

### BIS Publishes Rules Amending Categories I, II, and III of ITAR

On January 23, 2020, BIS [published](#) the final rule regarding revisions to Categories I (firearms, close assault weapons and combat shotguns), II (guns and armaments), and III (ammunition/ordnance) of the United States Munitions List (USML). The final rule also indicates the transfer of items that no longer warrant control on the USML to the Commerce Control List (CCL). This final rule reflects the BIS response to the comments received to its 2018 proposed rule for revisions to Categories I, II, and III. The final rule is published simultaneously with a final rule by the Department of State that also revises Categories I, II, and III of the USML to describe more precisely the articles warranting continued control on that list.

The transfer of items to the CCL indicates a determination that the items in question do not provide a critical military or intelligence advantage to the US. Instead, the transferred items are generally part of what BIS acknowledges as a worldwide market for civil and recreational activities such as hunting, marksmanship, competitive shooting and other non-military activities.

### Treasury Releases Final Regulations to Reform National Security Reviews for Certain Foreign Investments and Other Transactions in the US

On January 13, 2020, the US Department of the Treasury [issued](#) the two final regulations required to implement the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) and to provide the Committee on Foreign Investment in the United States (CFIUS) with the ability to better address national security concerns arising from certain investments and real estate transactions. FIRRMA expands the CFIUS authority to address national security concerns arising from certain types of investments and transactions that were previously outside of its jurisdiction, including CFIUS's jurisdiction over certain non-controlling investments into certain US businesses involved in critical technology, critical infrastructure, or sensitive personal data. Additionally, it establishes CFIUS's jurisdiction over certain real estate transactions.

The final regulations were crafted in response to public comments from a broad range of interested parties and define additional terms, add specificity to a number of provisions and include illustrative examples. The final regulations also implement FIRRMA's requirement that CFIUS limits the application of its expanded jurisdiction only to certain categories of foreign persons. The final regulations will become effective on February 13, 2020.

## US Intensifies Sanctions on Iran

On January 10, 2020, the US [announced](#) sanction on eight senior Iranian leaders. The designations, made pursuant to Executive Order (EO) 13876, include Ali Shamkhani, the Secretary of the Supreme National Security Council, Gholamreza Soleimani, the Commander of the Basij, and six other senior officials determined to be appointed by, or acting for or on behalf of, Iran's Supreme Leader. According to the announcement, these individuals carried out Iran's terror plots and are complicit in the recent murders of around 1,500 Iranian protestors.

Also on January 10, 2020, President Trump issued EO 13902, imposing broad new sanctions against targeted sectors of the Iranian economy. Among other things, EO 13902 authorizes Secretary of the Treasury to impose blocking sanctions against persons operating in Iran's construction, manufacturing, textiles, or mining sectors, as well as those determined to have engaged in significant transactions with those sectors or to have provided material support for persons blocked under these provisions.

## US Department of State Designates Former Moldovan Official on Corruption

On January 13, 2020, the US Department of State [designated](#) former Moldovan official and oligarch Vladimir Plahotniuc under Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2020 (Div. G, P.L. 116-94). Secretary of State Pompeo cited Plahotniuc's involvement in significant corruption as the reason for his public designation. The Department of State contends that in his official capacity, Plahotniuc was involved in corrupt acts that undermined the rule of law and severely compromised the independence of democratic institutions in Moldova. Under Section 7031(c), once the Secretary of State designates officials of foreign governments for their involvement, directly or indirectly, in significant corruption, those individuals and their immediate family members are ineligible for visas to the US. Accordingly, in addition to Plahotniuc, the Department of State also designated his wife, Oxana Childescu, his son, Timofei Plahotniuc, and his minor child. The designation renders Plahotniuc and his family members ineligible for visas to the US.

## US Acts Against Officials of the Former Maduro Regime Involved in Obstructing the Venezuelan National Assembly

In response to the Venezuelan military's blocking opposition leader Juan Guaidó from entering the National Assembly building earlier in the month, the US Departments of State and Treasury [announced](#) on January 13, 2020, sanctions against seven current or former officials of the Maduro regime.

The sanctioned individuals include Luis Parra, a longtime ally of Maduro who took advantage of the blockade to name himself the new head of congress. The sanctions, the latest US action to target the Maduro regime, freeze any assets held by the seven lawmakers in the US and prevent them from engaging in business with US companies. The sanctions come a year after the US recognized Guaidó as the legitimate president of Venezuela.

## US Further Restricts Air Travel to Cuba

The US Department of Transportation, at the request of US Secretary of State Michael Pompeo, [suspended](#) from January 10, 2020, until further notice, all public charter flights between the US and Cuban destinations other than Havana's José Martí International Airport. Public charter flight operators will have a 60-day wind-down period to discontinue all affected flights. Additionally, the Department will impose a cap on the number of permitted public charter flights to José Martí International Airport. The move is designed to prevent the Cuban regime from benefitting from expanded charter service in the wake of the October 2019 action suspending scheduled commercial air service to Cuba's airports other than Havana.

## Treasury Sanctions Entities for Facilitating the Exportation of Workers from North Korea

The US Department of the Treasury's Office of Foreign Assets Control (OFAC) [announced](#) on January 14, 2020, two North Korea-related designations focusing on the government of North Korea's continued supply of illicit labor to overseas markets. The action targets a North Korean trading corporation, Namgang Trading Corporation, and a China-based North Korean lodging facility, Beijing Sukbakso, that facilitate North Korea's practice of sending laborers abroad. North Korea's continued export of North Koreans as illicit laborers is part of an ongoing attempt to undermine and evade UN Security Council Resolutions (UNSCR) 2375 and 2397; UN member states were obligated to expel all North Korean laborers by December 22, 2019, in a manner consistent with UNSCR 2397.

Under these sanctions, all property and interest in property of these two entities that are in the US or in the possession or control of US persons must be blocked and reported to OFAC. OFAC's regulations generally prohibit all dealings by US persons or within the US (including transactions transiting the US) that involve any property or interests in property of blocked or designated persons. Additionally, any foreign financial institution that knowingly facilitates a significant transaction or provides significant financial services for any of the entities designated under these sanctions could be subject to US secondary sanctions.

## Treasury Sanctions South Sudanese First Vice President for Role in Serious Human Rights Abuse

On January 8, 2020, OFAC [sanctioned](#) the First Vice President of South Sudan, Taban Deng Gai (Deng), for his involvement in serious human rights abuse, including the disappearance and deaths of civilians. This action was taken pursuant to EO 13818, which implements the Global Magnitsky Human Rights Accountability Act and targets perpetrators of serious human rights abuse and corruption.

Although US gun and ammunition manufacturers will have an increased capacity to reach a larger customer base without as many restrictions on the export of their products, the revisions do not do away with export controls for the transferred items. Indeed, the rule creates 17 new export control classification numbers (EECNs) under the CCL to control the items moved from the USML. Additionally, certain Category II items will become part of the “600 series” of the CCL. Those 600-series ECCNs generally require licenses for exports or reexports, except to Canada or, if operating under license exception, any of the countries party to the Strategic Trade Authorization.

## EU

### EU Publishes Updated List of Dual-use Items

On December 30, 2019, the [Updated Annex I](#) to the “Dual-Use List” of Regulation 428/2009 the “Dual-Use Regulation” was published. Changes reflect updates to international non-proliferation agreements. The majority of the amendments result from alterations to the Wassenaar Arrangement and, along with other changes, include:

- A new decontrol note for “open-cell foam” electromagnetic wave absorbing materials
- A change to control entry for digital to analogue converters to avoid any overlapping of controls

### The UK Adopts the Revised EU Dual-use List

On December 31, 2019, the UK adopted the updated list to the Dual-use Regulation and, in doing so, published a consolidated version of the [UK Strategic Export Control Lists](#), which sets out all items that the UK considers to be controlled for the purposes of export.

### E3 Foreign Ministers Make Statement Concerning the JCPoA

The foreign ministers of France, Germany and the UK joined to make a [statement](#) concerning their regret over the decision of the US to withdraw from the agreement and Iran’s derogation from its existing commitments. The three ministers expressed their commitment to the JCPoA and their gratefulness to both Russia and China for joining them in their pursuit of preserving the agreement.

## Six Countries Join “Instex” SPV to Facilitate Trade With Iran

On December 1, 2019, an announcement was made that in addition to the UK, France and Germany, Belgium, Denmark, Finland, the Netherlands, Norway and Sweden had signed up to the clearing house “Instex” (Instrument in Support of Trade Exchanges) in order to continue buying oil from Iran and importing other products or services.

## EU Issues Notice for the Attention of Persons Concerning Restrictive Measures in Egypt

On December 10, 2019, the European Council published a [notice](#) concerning the applicability of measures to certain individuals and informing such persons that they may submit a request to the Council to obtain information regarding their file. This is in relation to Council Regulation (EU) No 270/2011 and Council Decision 2011/172/CFSP.

## EU Issues Notices Concerning Restrictive Measures in the Democratic Republic of the Congo

On December 10, 2019, the European Council published a [notice](#) for the attention of persons to whom the measures of Council Regulation (EC) No 1183/2005, implemented by Council Implementing Regulation 2019/2101, apply. The notice makes such persons subject to the measures provided for in Decision 2010/788/CFSP and in Council Regulation (EC) No 1183/2005. The notice informs those subjects of the possibility to apply to the competent authorities of the relevant member state in order to obtain authorization to use frozen funds for basic needs or specific payments.

## Upcoming Events

### CE@Schar COMPLIANCE 2020™ – Emerging and Foundational Technologies and CFIUS for Export Compliance Professionals – February 20, 2020.

As part of COMPLIANCE 2020™, a subscription-based certificate program designed by practitioners for practitioners, [George Grammas](#) will present on the current status of emerging and foundational technologies and ways to empower export compliance professionals to serve their organization with an understanding of the relationship of export controls to CFIUS and the new CFIUS authority that impacts many transactions previously not subject to CFIUS review. Subscribe to our blog, [The Trade Practitioner](#), for details on how to join this presentation.

### COMPLIANCE 2020™ – Event Series Kickoff, UK Edition – April 2, 2020, King’s College, London.

COMPLIANCE 2020™ is a subscription-based trade compliance certificate program designed by practitioners for practitioners. Similar to the US program being offered in partnership with George Mason University, Content Enablers, in collaboration with King’s College, brings this US export controls compliance training opportunity to the UK. Once again, [George Grammas](#) will moderate a panel comprising UK government and industry representatives during the kickoff event. Subscribe to [The Trade Practitioner](#) blog and stay tuned for further event details.

## Contacts

Please feel free to contact one of the trade practitioners listed below with any question, or you can reach our broader team at [InternationalTradeCompliance@squirepb.com](mailto:InternationalTradeCompliance@squirepb.com).

[Subscribe](#) to *The Trade Practitioner* blog for updates and alerts on topics including export controls, sanctions, investment security and tariffs, among others, and access our database of publicly known Committee on Foreign Investment in the United States (CFIUS) filings.

### US

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## About Us

Our export controls and sanctions lawyers have the ability to provide advice on the shifting regulatory framework on both sides of the Atlantic. We have extensive experience in advising and representing a wide range of companies and financial institutions in Europe, the US and other jurisdictions on export control and sanctions from a multijurisdictional perspective. Our team is part of our overall International Trade Practice, providing a “one-stop shop” solution to global trade compliance through rapid, professional and tailored advice and compliance tools to fit your business needs and processes.

## Resources to Strengthen Compliance

We encourage you to visit our blog, *The Trade Practitioner*, where you will find additional updates and information on export controls, sanctions and other international trade topics. In addition, organizations engaged in the trade of items specially designed for military or space applications are encouraged to download our complimentary *ITAR Practitioner's Handbook*, which covers the International Traffic in Arms Regulations (ITAR) and the US Department of Commerce “600 Series.”

## Practice Update

A new trade practitioner has joined our team, further expanding our global capabilities and offering clients additional resources. Based in Madrid, **Carolina Gamba** is a Spanish qualified lawyer with experience working in sanctions, foreign direct investment and other areas of trade compliance. Before joining us, Carolina worked at the United Nations Conference for Trade and Development (UNCTAD) in New York where she carried out research and analysis of trade and investment policies and participated in member state negotiations within the Second Committee of the General Assembly and the Economic and Social Council. She also gained experience in the sanctions field, among others, while working at a law firm and being part of the legal team representing clients at the General Court and the Court of Justice of the European Union in Luxembourg. Finally, she was also part of the internal legal counsel for the Wealth Management Division of Banco Santander in Madrid.