

US

US District Court Enjoins Department of State From Enforcing New ITAR Rule

On March 6, 2020, the US District Court for the Western District of Washington issued [an order](#) enjoining the US Department of State (State) from implementing or enforcing a new regulation altering the International Traffic in Arms Regulations (ITAR): US Munitions List (USML) Categories I, II and III, published in the Federal Register on January 23, 2020, “insofar as it alters the status quo restrictions on technical data and software directly related to the production of firearms or firearm parts using a 3D-printer or similar equipment.” (Case No. 2:20-cv-00111-RAJ).

The new regulation from January revised Categories I, II and III of the USML and removed certain items that State determined no longer warrant control. Concurrently, the US Department of Commerce (Commerce) [published](#) in the Federal Register a Final Rule that amended the Export Administration Regulations (EAR) to control the items removed from the USML. The same day, several US states filed a lawsuit seeking a court order to prohibit the enforcement of the new rules.

As a consequence of the court order, all persons engaged in manufacturing, exporting, temporarily importing, brokering or furnishing defense services related to “technical data and software directly related to the production of firearms or firearm parts using a 3D-printer or similar equipment” must continue to treat such technical data and software as subject to control on the USML.

BIS Extends Huawei Temporary General License and Comment Period

On March 12, 2020, Commerce’s Bureau of Industry and Security (BIS) [published](#) in the Federal Register a final rule extending the Temporary General License (TGL) for parties transacting with Huawei Technologies Co., Ltd. and its 114 non-US affiliates (collectively, Huawei) on the Entity List. The new Final Rule extends the TGL to May 15, 2020.

As discussed in more detail in our previous alerts on the Huawei TGL ([here](#) and [here](#)), the TGL authorizes certain activities with those Huawei entities on the Entity List, including those necessary for the continued operations of existing networks and equipment, as well as the support of existing mobile services, including cybersecurity research critical to maintaining the integrity and reliability of existing and fully operations networks and equipment.

All other exports, reexports or transfers (in-country) with the listed Huawei entities that are not specifically authorized under the TGL continue to require a specific license from BIS.

Concurrently with the extension of the TGL, BIS also [extended](#) the comment period for public comments related to future extensions of the TGL to April 22, 2020. BIS is seeking comments from the public on the impact on companies in the following areas:

- What would be the impact on a company or organization if the TGL is not extended?
- Given the TGL was implemented to prevent the interruption of existing network communication systems and equipment, and allow time for companies and persons to shift to other sources of equipment, software and technology (i.e., those not produced by Huawei or one of its listed affiliates), what would be required for a company or organization to achieve such an end-state? How long would it take until the authorization(s) in the TGL would no longer be required? What are costs associated with this shift and are there issues where the prohibited equipment software and technology are prevalent and alternative solutions may not be available? Are there specific use cases where cessation of use is not feasible?
- If the TGL is extended, what potential revisions should BIS consider to enhance effectiveness for both covered transactions and transactions outside the scope of the TGL?
- What potential alternatives to either extending the TGL or allowing it to expire will facilitate compliance with the supplemental requirements of the Entity List entries for Huawei and its listed affiliates while reducing complexity for implementation purposes?
- There may be further costs associated with the current extension or non-extension of the current TGL (e.g., lost business opportunities) – what are they and what additional guidance should BIS consider?

Parties wishing to submit a comment may do so through www.regulations.gov under docket number BIS 2020-0001 or RIS 0694-ZA02.

BIS Adds 24 Entities to Entity List

On March 16, 2020, BIS [published](#) in the Federal Register a list of 24 entities that it is adding to its Entity List. The entities are based in China, Iran, Pakistan, Russia and the United Arab Emirates. Designation of an organization on the Entity List does not block all dealings with the organization, as would occur for an organization designated as a Specially Designated National (SDN) by the Office of Foreign Assets Control (OFAC). The Entity List is more targeted in its application. Section 744.16(a) of the EAR provides that no person may “export, reexport, or transfer (in-country) items specified on the Entity List to listed entities without a license from BIS.” For all 24 entities being added to the Entity List, the “items specified” are all items subject to the EAR. Therefore, the designation prohibits all unlicensed exports, reexports or transfers to any of those entities of any item subject to the EAR by any person – both US persons and non-US persons.

While the EAR does contemplate that a license could be obtained to export, reexport or transfer items subject to the EAR, the Entity List establishes a policy of a presumption of denial for the license application of 20 of the 24 newly-listed entities.

For each of the 24 entities added to the Entity List in this Final Rule, shipments of items removed from eligibility for a License Exception or for export or reexport without a license (NLR) as a result of this Final Rule that were en route aboard a carrier to a port of export or reexport, as of 16 March 2020, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

OFAC Announces Nicaragua-related Designations

On March 5, 2020, OFAC designated the Nicaraguan National Police (NNP) and three NNP commissioners. The NNP is the primary law enforcement entity in Nicaragua and, according to OFAC, was sanctioned for its role in serious human rights abuses in Nicaragua. According to the [Treasury Department’s press release](#), “[s]ince the start of political unrest in 2018, the NNP and parapolice have conducted kidnappings and targeted executions of opposition political leaders.” In conjunction, OFAC issued two Nicaragua-related general licenses. [General License No. 1](#) permits transactions that are for the conduct of the official business of the US government. [General License No. 2](#) authorizes the wind down of transactions that involved the NNP through May 6, 2020. Additional information about General License No. 2 is available in the OFAC’s [frequently asked questions](#).

OFAC Removes the Terrorism Sanctions Regulations

OFAC issued a [final rule removing the Terrorism Sanctions Regulations](#), 31 C.F.R. Part 595. The rule took effect on September 9, 2019. These regulations were implemented based upon a national emergency declared in 1995 due to “grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process.” See Exec. Order No. 12947, 60 Fed. Reg. 5079 (1995). Since this national emergency was terminated by the President on September 9, 2019, the regulations have been removed.

OFAC Issues Amended Ukraine-related General Licenses

OFAC issued [Ukraine-related General License No. 13N](#), “Authorizing Certain Transactions Necessary to Divert or Transfer Debt, Equity, or Other Holdings in GAZ Group” and [General License No. 15H](#), “Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts with GAZ Group, and Certain Automotive Safety and Environmental Activities.” The two amended general licenses extend the expiration dates of the previous versions of these general licenses to July 22, 2020.

OFAC Issues Amended Venezuela-related General License

On April 3, 2020, OFAC issued [General License \(GL\) 13E](#), Authorizing Certain Activities Involving Nynas AB. GL 13D was set to expire on April 14, 2020. This newly issued GL expires on May 14, 2020. According to OFAC, “Nynas AB remains engaged with OFAC on a proposed corporate restructuring that could potentially result in significant changes to Nynas AB’s ownership and control.” Thus, this extension is intended to afford the parties additional time to complete this engagement.

Tennessee Man Pleads Guilty to Smuggling Goods to Iran

On March 2, 2020, Aiden Davidson, also known as Hamed Aliabadi, of Tennessee, pleaded guilty in federal court to smuggling goods from the US to Iran. According to the US Attorney’s Office [press release](#), Davidson, a citizen of Iran and a naturalized citizen and resident of the US, was the manager, member and registered agent of a New Hampshire limited liability company, Golden Gate International, LLC (Golden Gate). Between December 2016 and February 2017, Davidson, through Golden Gate, smuggled goods from Savannah, Georgia, to a company in Tehran, Iran. The goods included motors, pumps, valves and other items valued at more than US\$100,000. Davidson falsely identified the Ultimate Consignee of the shipments as a company in Igdir, Turkey. Additionally, between April 2017 and August 2017, Davidson and Golden Gate smuggled goods from Savannah, Georgia, to the same company in Iran. These shipments included goods valued at approximately US\$13,000 and, again, falsely identified the Ultimate Consignee as a company in Turkey. Davidson pleaded guilty to the willful evasion of national security controls related to transactions with Iran. He is scheduled to be sentenced June 17, 2020.

EU

EU Responds to COVID-19

On March 13, 2020, the EU Commission issued a [communication](#) to the EU Parliament, EU Council, EU Central Bank, EU Investment Bank and Eurogroup for the coordinated economic response to the COVID-19 outbreak. This communication included a generalized summary of implications and measures to counterbalance the socio-economic effects of the outbreak in a coordinated way by EU states.

On March 14, the EU Commission issued the [Implementing Regulation \(EU\) 2020/402](#) on making the exportation of certain products subject to the production of an export authorization in connection to the EU common rules for exports with regard to protective equipment given the outbreak of the crisis caused by COVID-19.

On March 19, the EU Commission issued the [Implementing Regulation \(EU\) 2020/426](#) amending Implementing Regulation (EU) 2020/402 excluding certain countries of the EU from the application of measures and naming the Union Civil Protection Mechanism as the entity to address the requests for assistance.

On March 20, the EU Commission issued a [communication](#) to the member states related to the Implementing Regulation (EU) 2020/402.

Germany Lifts Export Ban on Medical Protective Equipment

On March 19, 2020, Germany [ordered](#) the removal of domestic restrictions on exports of medical equipment in light of the adoption of the EU Commission Implementing Regulation (EU) 2020/402.

INSTEX Successfully Concludes Its First Transaction Between the EU and Iran

Governments of France, Germany and the UK [confirmed](#) that INSTEX – a special purpose vehicle established to process payments for legitimate business transactions between the EU and Iran outside the banking sector, after the US withdrew from the Joint Comprehensive Plan of Action (JCPOA) – has been operational and already successfully facilitated the first transaction (imports of medical goods to Iran). The transaction was concluded in cooperation with STFI, the Iranian counterpart to INSTEX. Both institutions aim at increasing the number of commercial transactions that could be served by this alternative payment mechanism.

EU Commission Updates Guidance on FDI Screening in the EU Citing COVID-19 Concerns

On March 25, 2020, the EU Commission published a [guidance](#) addressed to member states on the application of [foreign direct investment \(FDI\) Screening Regulation 2019/452](#) in the EU and restrictions on free movement of capital from third countries. The guidance relates to the COVID-19 pandemic. The EU Commission is concerned by new FDIs in the EU health and health related sectors and technologies, as well as new FDI aiming at EU strategic companies weakened by the pandemic. See [here](#) our detailed analysis of this guidance.

EU Responds to Ukraine Crisis By Extending Restrictive Measures

On March 5, 2020, the EU Council issued [Decision \(CFSP\) 2020/373](#) for the extension of sanctions over the misappropriation of Ukrainian state funds until March 6, 2021. Asset freeze and entry limitations to the EU territory against individuals were established through the amendment of [Decision \(CFSP\) 2014/119](#).

On March 13, the EU Council issued [Decision \(CFSP\) 2020/399](#), which extended sanctions over action against Ukraine's territorial integrity until September 15, 2020. Asset freeze, funding prohibition and entry limitations to the EU territory against individuals was established through the renewal and amendment of [Decision \(CFSP\) 145/2014](#).

On March 16, High Representative of the EU Josep Borrell presented a [declaration](#) on the illegal annexation of the Autonomous Republic of Crimea and the city of Sevastopol by the Russian Federation.

EU Amends Sanctions on Egypt

On March 19, 2020, the EU Council issued the [Implementing Regulation \(EU\) 2020/416](#) amending Annex I of [Council Regulation \(EU\) 270/2011](#) on restrictive measures directed against persons, entities and bodies in view of the situation in Egypt.

Also on March 19, the EU Council issued [Decision \(CFSP\) 2020/418](#) amending part A of the Annex of [Decision \(CSP\) 2011/172](#) on restrictive measures directed against certain persons, entities and bodies in view of the situation in Egypt.

EU Renews Sanctions on Bosnia and Herzegovina

On March 23, 2020, the EU Council issued [Decision \(CFSP\) 2020/435](#) renewing [Decision \(CFSP\) 2011/173](#) on restrictive measures in the view of the situation of Bosnia and Herzegovina until March 31, 2021.

EU Issues Restrictive Measures Against Libya

On March 5, 2020, the EU Council issued the [Implementing Regulation \(EU\) 2020/371](#) implementing art. 21(5) of [Regulation \(EU\) 2016/44](#) on restrictive measures in view of the situation in Libya amending Annex II on the listed persons, entities and bodies designated by the UNSC or Sanctions Committee.

On March 27, the EU Council issued [Decision \(CFSP\) 2020/458](#) amending [Decision \(CFSP\) 2015/1333](#) on restrictive measures in view of the situation in Libya concerning entry restrictions and asset freeze measures towards certain individuals and an extension of such until October 2, 2020.

On March 31, the EU Council adopted a [decision](#) to launch Operation EUNAVFOR MED IRINI on enforcing the UN arms embargo on Libya. The termination date for the Operation is set on March 31, 2021.

UK

Export Control Joint Unit (ECJU) Publishes Notice Regarding the Handling of Export Licenses in Relation to COVID-19

On March 20, 2020, the ECJU published a [notice](#) to exporters explaining that it is taking measures to ensure that there is minimum disruption to the application process and advice provided. The ECJU has also put in place certain business continuity measures, including technical assessments, end-use checks and review of applications against the ECJU licensing requirements.

Communications from the ECJU will continue to be sent via SPIRE and the Ministry of Defence Team within the ECJU will also continue to process Ministry of Defence Forms, crown exemptions and open general export license authorization letters (OGELs).

The ECJU will also continue to operate its inspection programs, via remote audits. Sites due for inspection will be contacted in order to determine the most effective communication methods. The ECJU notes that as it will be experiencing significant staff shortages, processing times will be slower. In addition, the control list advice and end-use advice services may have to be stopped during this period.

HM Treasury Hits Standard Chartered Bank With Fines For Violation of EU Sanctions Against Russia

The UK HM Treasury made a [final determination](#) imposing a severe fine on Standard Chartered Bank for violations of EU sanctions against Russia. Standard Chartered Bank violated Article 5(3) of the EU Regulation 833/2014 prohibiting provisions of loans to certain Russian institutions and their subsidiaries. Standard Chartered Bank made – between 2015 and 2018 – 102 loans to Denizbank A.Ş. that was a subsidiary of Sberbank of Russia. Sberbank is subject to EU sectoral sanctions limiting its access to loans and capital markets in the EU. The total value of fine exceeds £20 million and was significantly reduced due to the voluntary disclosure.

UK MPs and Peers Request the Foreign Secretary to Align UK “Magnitsky” Style Sanctions With the US

On March 18, 2020, 45 UK MPs and peers [called](#) on the British Foreign Secretary to ensure that the UK Magnitsky legislation (Sanctions and anti-Money Laundering Act 2018) also imposes sanctions on kleptocrats and corrupt oligarchs in addition to those who violate human rights. This is based on the lack of harmony between the US and UK stance and that, based on this, the UK leaves itself open for abuse from financial backers who benefit from abusive rules.

ECJU Amends Guidance on Syria Trade Sanctions

On March 9, 2020, the ECJU amended its [guidance](#) on trade sanctions applicable to Syria. The purpose of the amendments is to clarify the prohibition related to the purchase and transport of crude oil and petroleum products in Syria.

ECJU Amends Guidance on Somalian Trade Sanctions

On March 25, 2020, the ECJU amended its [guidance](#) on trade sanctions applicable to Somalia. Somalia is currently subject to an arms embargo, transit control and other restrictions.

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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.

ITAR Handbook

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.”

COVID-19 Resources

Please visit [our COVID-19 Coronavirus Legal Insights hub](#) for extensive and comprehensive legal, business and regulatory advice, complemented by our unique global political insight, as well as practice support tools to help you navigate the unfolding pandemic, while helping you stay abreast of the changes to laws, regulations and compliance requirements around the globe.