

## US

### BIS Adds Certain Cultivation Chambers and Precursor Chemicals to the CCL

The US Department of Commerce, Bureau of Industry and Security (BIS) [published](#) in the Federal Register a new Final Rule implementing the decisions made at the February 2020 Australia Group (AG) Intersessional Implementation Meeting, and those subsequently adopted pursuant to the AG silence procedure. The AG is a multilateral forum consisting of 42 participating countries and the European Union that maintain export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program.

Specifically, the new rule amends the Export Control Classification Numbers (ECCNs) 1C350, 1C351 and 2B352 on the Commerce Control List (CCL). ECCN 1C350 is amended by adding 24 precursor chemicals, as well as mixtures in which at least one of these chemicals constitutes 30% or more of the weight of the mixture, to ECCN 1C350.d. ECCN 1C351 is amended to add the Middle East respiratory syndrome-related coronavirus (MERS-related coronavirus). In addition, ECCN 2B352 is amended by including a Technical Note indicating that cultivation chamber holding devices controlled in 2B352.b.2.b include single-use cultivation chambers with rigid walls.

### BIS Permits Release of “Technology” in the Context of Standards Organizations

On June 18, 2020, BIS [published](#) in the Federal Register an Interim Final Rule and request for comments that amends the Export Administration Regulations (15 CFR Parts 730-774) (EAR) by authorizing certain releases of technology without a license to certain entities on the Entity List (Supp. No. 4 to Part 744) in the context of a standards organization. Specifically, the new rule authorizes the release of technology subject to the EAR that is designated as EAR or controlled on the CCL for AT reasons to members of a standards organization without a license, including certain entities on the Entity List, if released for the purpose of contributing to the revision or development of a standard.

The new rule adopts the definitions of “standard” and “standards organization” from the Office of Management and Budget (OMB) Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities ([available here](#)). Comments may be submitted by August 17, 2020.

### DDTC Amends Licensing Policy Regarding the Hong Kong Special Administrative Region (Hong Kong)

On July 15, 2020, the Department of State, Directorate of Defense Trade Controls (DDTC) [announced](#) a change in licensing policy regarding Hong Kong following the President’s Executive Order (EO) on Hong Kong from July 14, 2020, which required, among other things, that Hong Kong be treated as the People’s Republic of China (PRC or China) for the purposes of the Arms Export Control Act (AECA). The EO also contained a carve-out to support Hong Kong persons residing outside of Hong Kong or the PRC who previously had been authorized to access defense articles subject to the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). Pursuant to this change, Hong Kong is now considered to be a part of the PRC under section 126.1(d)(1) of the ITAR, which imposes a policy of denial for all transfers subject to the ITAR.

The announcement from DDTC also included the following FAQs regarding the revised licensing policy regarding Hong Kong.

**Q: The EO provides that the President is terminating export licensing suspensions for exports of defense articles to certain Hong Kong persons. Are exports of defense services to those Hong Kong persons permitted?**

**A:** Section 902(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246, 22 U.S.C. 2151 note) prohibits “[t]he issuance of licenses under section 38 of the Arms Export Control Act for the export to the People’s Republic of China of any defense article on the United States Munitions List....” As a result, the President is not required to make a determination under section 902(b) (2) of that Act in order for DDTC to authorize exports of defense services to Hong Kong persons. DDTC will review on a case-by-case basis license applications to export defense services to Hong Kong persons who (1) are physically located outside of Hong Kong or the PRC and (2) were authorized to receive defense articles prior to July 14, 2020. Exporters may continue to rely on available exemptions consistent with the provisions of ITAR § 126.1(a).

We refer you to the US Department of Commerce for additional information on exports to Hong Kong controlled under the Commerce Control List.

**Q: I have a previously approved export authorization which names Hong Kong as a transfer territory. Is this authorization still valid?**

**A:** Yes. Current, valid, non-exhausted authorizations naming Hong Kong as a transfer territory are not affected by the Executive Order. At this time the Department is not taking steps to revoke or rescind previously approved authorizations to export defense articles or services to Hong Kong.

**Q: Does this action apply to all end-users in Hong Kong, or just government entities?**

**A:** In accordance with the Executive Order, Hong Kong is now treated as China under section 126.1(d)(1) of the ITAR and there is a presumption of denial for license requests where a Hong Kong person is named as an end-user, licensee (signatory) or sublicensee, or where Hong Kong appears as a marketing, transfer, re-transfer, re-export, sales, or distribution territory.

**US Department of Treasury Office of Foreign Assets Control (OFAC) Reaches Settlement With Several Companies**

On July 28, 2020, OFAC [announced](#) a US\$824,314 settlement with Whitford Worldwide Company, LLC (Whitford), a cookware coating manufacturer. Whitford agreed to settle its 74 apparent violations of the Iranian Transactions and Sanctions Regulations by Whitford and certain of its subsidiaries. According to OFAC, “between about November 2012 and December 2015, these subsidiaries sold coatings intended for customers in Iran and engaged in other trade-related transactions with Iran. Additionally, U.S. persons employed by Whitford facilitated some of these transactions with Iran.”

On July 16, 2020, OFAC [announced](#) a US\$665,112 settlement with Essentra FZE Company Limited (Essentra FZE), a cigarette filter and tear tape manufacturer located in the United Arab Emirates, for three apparent violations of the North Korea Sanctions Regulations. According to OFAC, “Essentra FZE exported cigarette filters to the DPRK through a network of front companies in China and other countries using deceptive practices, and received payment for the shipment of these goods into its bank accounts at the foreign branch of a U.S. bank between September 2018 and December 2018.”

On July 8, 2020, OFAC [announced](#) a US\$134,523 settlement with Amazon.com, Inc. (Amazon). This settlement resulted from Amazon’s apparent violations of multiple OFAC sanctions programs, which Amazon voluntarily self-disclosed. According to OFAC, “[a]s a result of deficiencies related to Amazon’s sanctions screening processes, Amazon provided goods and services to persons sanctioned by OFAC; to persons located in the sanctioned region or countries of Crimea, Iran, and Syria; and to individuals located in or employed by the foreign missions of countries sanctioned by OFAC.”

**OFAC Issues Global Magnitsky General License and Frequently Asked Question**

On July 31, 2020, OFAC [issued](#) Global Magnitsky [General License 2](#), “Authorizing Certain Wind Down and Divestment Transactions and Activities Related to Blocked Subsidiaries of the Xinjiang Production and Construction Corps (XPCC),” and an accompanying [FAQ](#) explaining the General License. General License 2 should be reviewed for additional information.

**Federal Grand Jury Indicts California-based Company, Company President and Employee in Alleged Scheme to Violate the Export Control Reform Act**

A federal grand jury [indicted](#) Broad Tech System Inc., located in Ontario, California, the company’s CEO, CFO and President Tao Jiang (aka “Jason Jiang”) and Bohr Winn-Shih, an equipment engineer for Broad Tech Systems, on charges they participated in a conspiracy to conceal information from the US Department of Commerce and US Customs and Border Protection. The indictment alleges the parties conspired to export chemicals manufactured in the US to a technology company in China that is on a US government list of businesses not permitted to receive products manufactured in the US.

**Department of Justice Sentences Massachusetts Man for Smuggling Goods From the US to Iran**

Aiden Davidson (aka Hamed Aliabadi) of Brighton, Massachusetts, was [sentenced](#) to 46 months in federal prison for smuggling goods from the US to Iran in violation of US sanctions on trade with Iran. Davidson was the manager, member and registered agent of a New Hampshire limited liability company, Golden Gate International, LLC (Golden Gate). Babazadeh Trading Co. (aka Babazadeh Hydraulic Trading Group (Babazadeh)) was an Iranian company that operated an online resale business based in Tehran, Iran. Stare Lojistik Enerji Sanayi Ticaret was a Turkish freight forwarding company with a location in Igdir, Turkey. Between December 2016 and February 2017, Davidson and Golden Gate smuggled goods from Savannah, Georgia, to Babazadeh in Iran. The goods included motors, pumps, valves and other items that were valued at more than US\$100,000.

## EU

### EU Council Amends North Korean Sanctions and Extends Venezuelan Sanctions Listings

On June 2, the [Council Implementing Decision 2020/733](#) replaced entry 75 with Singaporean entity Yuk Tung Energy PTE LTD. Further, on June 29, the Council [Implementing Regulation 2020/897](#) added 11 individuals in the EU sanction list for undermining democracy and the rule of law in Venezuela.

### The Paris Court of Appeal Holds That US Sanctions Cannot Be Considered as Mandatory Rules in France

On June 3, the French court [rejected](#) a challenge to an arbitral award that did not take into account the potential impact of US sanctions against Iran on a commercial dispute between parties. The court held that EU and UN sanctions constitute mandatory rules being a part of the French international public policy, as they aim to contribute and maintain international peace. Nevertheless, this court found that US sanctions on Iran could not be regarded as international public policy, especially when France and the EU have opposed to the US sanctions' extraterritorial reach.

### EU Renews Crimea and Sevastopol Sanction

On June 18, the [Council Decision 2020/850](#) extended sanctioning measures and restrictions on economic relations with Crimea and Sevastopol as a response to the illegal annexation of Ukrainian territories by the Russian Federation until June 23, 2021. Prohibitions and restrictions have been set since 2014 in support of Ukraine's territorial integrity. Prohibitions to provide financial or infrastructural investments, export certain goods and technologies to Crimean companies for use in Crimea in telecom and energy sectors and restriction on the importation of products originating in Crimea and Sevastopol are among the measures extended.

### EU Renews Economic Sanctions on Specific Economic Sectors of the Russian Federation

On June 29, following the assessment of the state of the Minsk Agreements, the [Council Decision 2020/907](#) extended sanctions targeting specific economic sectors of the Russian Federation until January 31, 2021. This extension limits access to EU financial capital markets, prohibits certain Russian companies from obtaining financial assistance from the EU, and restricts trade operations with regard to defense-related material and dual-use items, as well as certain technologies that may be used in the Russian energy sector.

### EU Announces That the Free Trade Agreement With Vietnam Entered Into Force

On June 30, the EU published an announcement regarding the [EU-Vietnam Free Trade Agreement](#) to enter into force beginning August 1, 2020, establishing a free trade area for the liberalization and facilitation of trade and investment.

### EU Calls for More Transparency on COVID-19 Trade-related Measures by WTO Members

On July 24, during the WTO Trade Policy Review Body meeting held in Geneva, the EU, along with other partners, co-signed a [joint communication](#) looking forward to promote transparency and intensify monitoring activities of the trade-related measures taken in response to the coronavirus disease 2019 (COVID-19). The [communication](#) delivers a three-step action plan that aims to minimize the impact of COVID-19 on trade.

### EU Affirms Airbus Compliance

On July 24, the commission [announced](#) that France, Spain and Germany are in full compliance with the rulings of the WTO; therefore, the EU top trade officials believe there is no more grounds for the US to maintain its countermeasures on EU exports. The involved countries modified the terms of the repayable launch investment of the A350 aircraft to the extent that they now reflect market conditions. The US duties of US\$7.5 billion on EU exports are still in place and the EU Commissioner for Trade called for the US to lift the tariffs immediately. If the US decides to maintain, increase or apply new duties, the EU may be able to exercise its sanction rights under the WTO as countermeasures.

### EU Plans on Restricting Exports of Communication Interception and Cybersurveillance Equipment and Technology to Hong Kong

On July 28, the EU Council published [conclusions](#) on Hong Kong in support of the "One Country, Two Systems" principle to express solidarity to the people of Hong Kong and setting a framework for the EU and its member states to carry out a coordinated response to recent events in Hong Kong. Among the measures to be implemented either on national or EU levels, the EU will take steps to limit exports of specific sensitive equipment and technologies for end-use in Hong Kong if they may be used for internal repression, interception of internal communications or cybersurveillance.

### EU and UK Prepare for Hard Brexit

In July 2020, the transition period extension for the UK to exit the EU was ruled out. Consequently, the no-deal end of the Brexit transition period approaches. At this moment, the EU-UK dialogues continue, but both the European Commission's [communication](#) and the UK's [campaign](#) aim to prepare businesses for the end of the transition period. Trade in goods and trade in services are the top priorities of both the EU and the UK governments.

## UK

### The UK Imposes First Human Rights Sanctions

The UK has introduced its first sanctions under its Global Human Rights Sanctions regime, which targets 47 individuals and two entities. The regulations setting out the sanctions fall under the Sanctions and Anti-Money Laundering Act 2018 and impose asset freezes and travel bans on individuals and entities responsible for violations of human rights. Those sanctioned include 20 Saudi nationals and 25 Russian nationals. The government has provided [guidance](#) on its new sanctions regime, which will need to be considered in relation to its wider approach to human rights matters.

### The UK Extends Arms Embargo on People's Republic of China to Hong Kong

UK Foreign Secretary Dominic Raab [announced](#) on July 20, 2020, that the UK will extend the arms embargo that applies to mainland China to Hong Kong. Open licenses that apply to Hong Kong will, therefore, be amended. This embargo will continue to have effect after the transition period, which ends on December 31, 2020.

### The UK Announces Plans to Remove Huawei from UK 5G Networks by 2027

On July 14, 2020, the UK [announced](#) its plans to ban Huawei from supplying any new materials by the end of 2020 and to remove Huawei from UK 5G networks by 2027. The decision follows new advice from the National Cyber Security Centre (NCSS) on the most recent impact of US sanctions against the telecommunications sector in the UK. The government is currently only advising that full fiber operators transition from buying new Huawei equipment. The government will implement these plans through the passing of a new Telecoms Security Bill.

### The UK Plans to Resume Granting Export Licenses of Military Equipment to Saudi Arabia

On July 7, 2020, the UK's Secretary of State for International Trade [announced](#) that steps had been taken to comply with the UK Court of Appeal judgment of June 20, 2019, with regard to licenses for export of military equipment for possible use in the conflict in Yemen. The court ruled that the government had made an error in the decision-making process, after it was suggested that equipment had been used in human rights abuses. As a result of the ruling, the previous undertaking given to the court that the UK would not grant any new licenses no longer applies and the government is now required to clear the existing backlog.

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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.”