

Regional End Use Monitoring



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Norway



- Country Group: A5
- STA, including for 600 series, authorized under 15 CFR 740.20 (c)
- **U.S. goods trade with Norway** totaled an estimated \$11.4 billion in 2022. Exports were \$4.7 billion; imports were \$6.7 billion. The **U.S. goods trade balance with Norway** was **-\$1.9 billion** in 2022.

Trade Data Source: U.S. Census Bureau



BIS Mission and Jurisdiction



- ❖ **Mission:** Advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control and treaty compliance system and promoting continued U.S. strategic technology leadership.
- ❖ **Jurisdiction:** BIS administers and enforces controls on the export, reexport and transfer of dual-use and less sensitive military items pursuant to the Export Administration Regulations.



Multilateral Export Control Regimes



United States and Norway are members to all four regimes:

- **Wassenaar Arrangement**: Export Controls for Conventional Arms and Dual Use Goods and Technologies
- **Nuclear Suppliers Group**: “NSG” is focused on stemming the proliferation of nuclear weapons.
- **Australia Group**: BIS implements the AG catch-all for all items destined or used in: Design, development, production, stockpiling, or use of chem/bio weapons anywhere in the world.
- **Missile Technology Control Regime**: The focus of “MTCR” is to limit the proliferation of missiles capable of delivering WMD’s.



ITAR ➤ EAR Move of certain items



U.S. Department of State	U.S. Department of Commerce
Directorate of Defense Trade Controls (DDTC)	Bureau of Industry and Security (BIS)
International Traffic in Arms Regulations (ITAR)	Export Administration Regulations (EAR)
Unites States Munitions List (USML)	Commerce Control List (CCL)
Covers defense items (commodities, software, and technical data) and defense services	<ul style="list-style-type: none"> ▪ Subject to the EAR but not on the CCL: commercial items ▪ Dual-use items on the CCL and some services related to proliferation ▪ CCL now also includes: <ul style="list-style-type: none"> ○ less-sensitive military items (“600 series”) ○ certain firearms ○ commercial spacecraft items (9x515 items)
22 C.F.R. Parts 120-130 (Code of Federal Regulations)	15 C.F.R. Parts 730-774 (Code of Federal Regulations)





Do You Need a (Re-)Export License?

IS THE ITEM SUBJECT TO THE EAR?

I - What is it?

II - Where is it going?

III - Who will receive it?

IV - What is the end use?



Items Subject to the EAR (contd.)



Outside the United States, the following items are subject to the EAR:

- U.S.-origin items subject to the EAR, wherever located
- Non-U.S. items incorporating certain amounts of U.S.-origin controlled content (de minimis rules apply)
- Non-U.S. items that are the direct product of certain U.S.-origin technology or software (direct product rule applies)



Application of EAR to Items Outside of the U.S.



For purposes of *de minimis*, U.S.-origin items are “incorporated” when they are:

- Essential to the functioning of the non-U.S. equipment;
- Customarily included in the sale of non-U.S.-made items; and
- Reexported with the non-U.S.-made items





Incorporation

- Items are considered to be incorporated when they are:
 - They are essential to the functioning of the foreign equipment,
 - They are customarily included in the sale of foreign-made items, **and**
 - They are re-exported with the foreign produced item.





Calculation

De minimis Percentage = 100 x

Fair market value of U.S.-origin controlled content

Fair Market dollar value of foreign item





CCL: Category Product Group

CCL CATEGORIES	
0	Nuclear & Miscellaneous
1	Materials, Chemicals, Microorganisms & Toxins
2	Materials Processing
3	Electronics
4	Computers
5 Part 1	Telecommunications
5 Part 2	Information Security
6	Sensors & Lasers
7	Navigation & Avionics
8	Marine
9	Aerospace & Propulsion

CCL PRODUCT GROUPS	
A	Systems, Equipment & Components
B	Test, Inspection & Production Equipment
C	Material
D	Software
E	Technology



Uncoding an ECCN: 600 series example

9A610

CCL
Category
0-9

Product
Group
A-E

Last two
characters will
generally track
the **WAML**

“600 series” derives its
name from the 3rd
character of the ECCN

Former USML items (and -018 items)
listed in the “Items” paragraph.

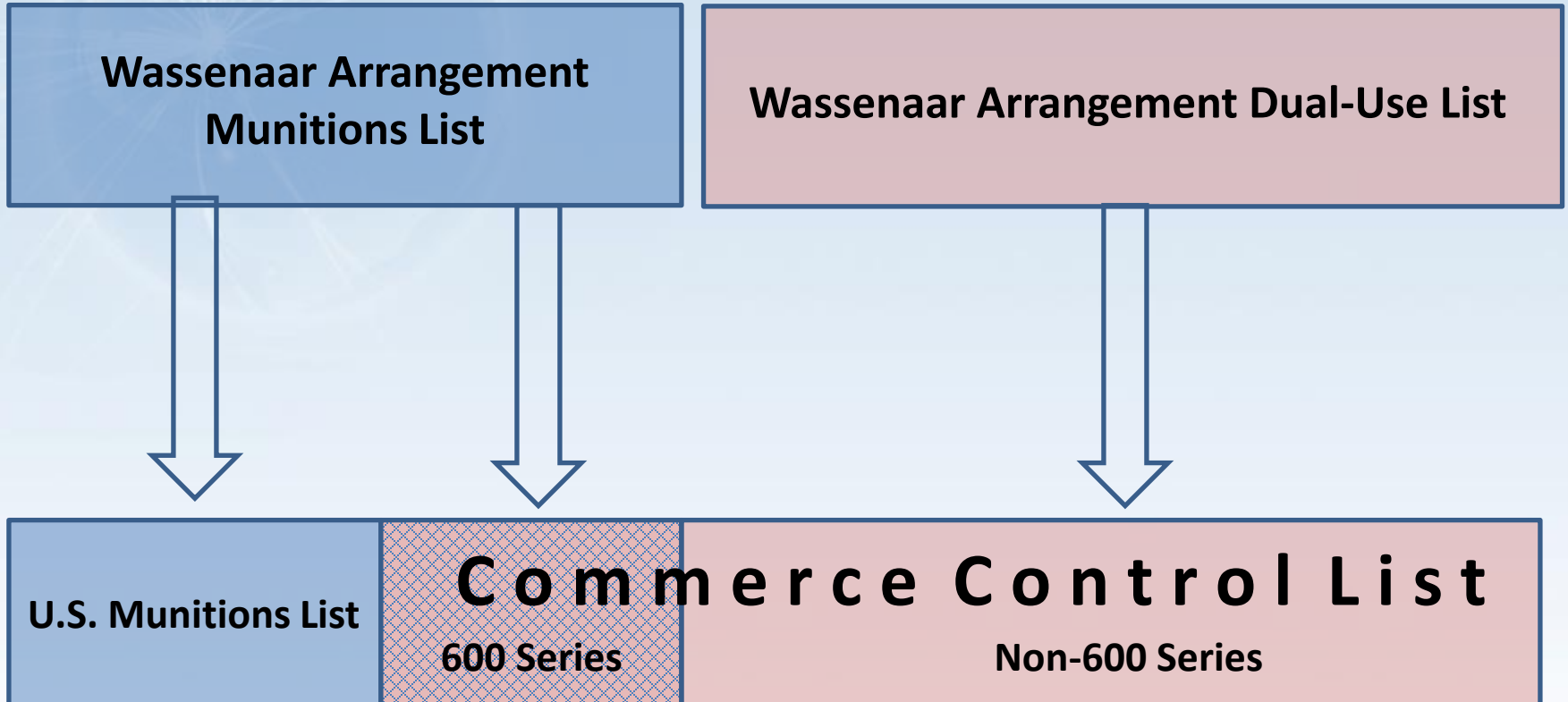
Order of review:

- **.a - .w**: specifically enumerated end items, materials, parts, components, accessories, and attachments
 - Some items may be “specially designed”
- **.y**: specifically enumerated commodities (primarily parts, components, accessories, attachments) that are “specially designed”
- **.x**: “specially designed” parts, components, accessories, and attachments that are not specifically enumerated



Primary U.S. Export Control Regulations

Comparison of U.S. and Wassenaar Arrangement Control Lists





Example of State/USML controlled:

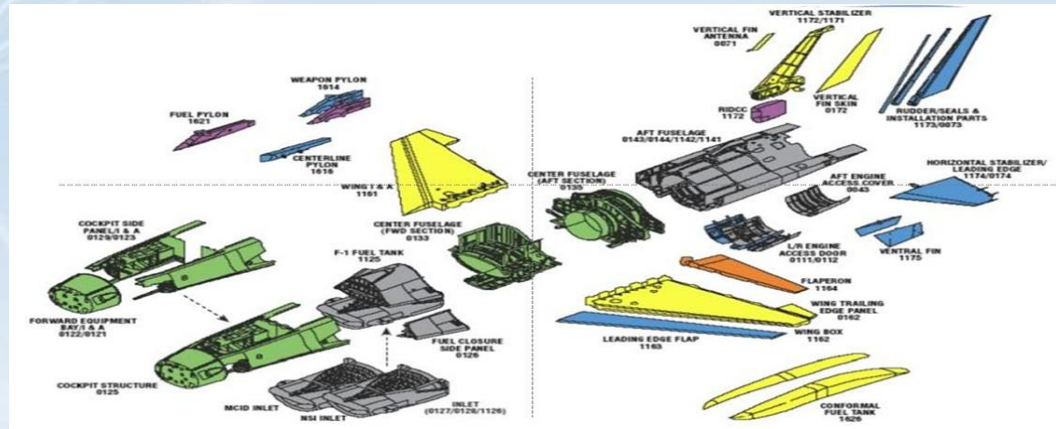
F-16 and Systems/Components/Parts



- Weapons pylons
- Bomb racks
- Missile launchers
- Fire control computer
- Radar
- Radar warning receiver
- Radar jammer
- Laser/Missile warning system
- Countermeasure dispensing system
- Aerial refueling receptacle
- Helmet mounted displays/sights
- Aircraft wing folding systems, parts, and components
- Damage/Failure-adaptive flight control systems
- Treat-adaptive autonomous flight control systems
- Air-to-air refueling systems and hover in-flight refueling (HIFR) systems, parts and components
- UAV flight control systems and vehicle management systems with swarming capabilities



Example of “600 Series”: *Systems/ Components/ Parts for the F-16*

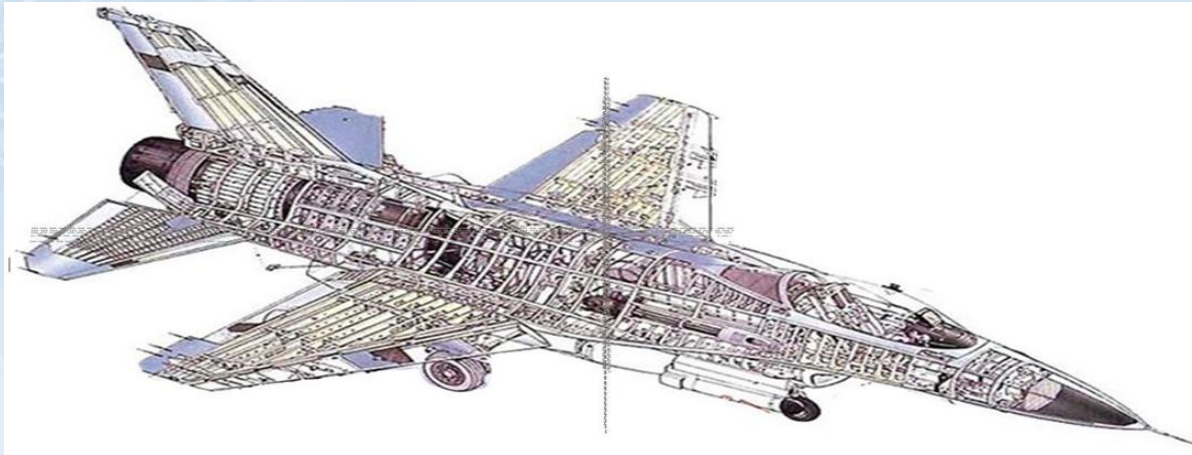


- Wings, rudders, fins, panels
- Fuselage – forward, center, aft
- Cockpit structure
- Forward equipment bay
- Horizontal stabilizer
- Conformal fuel tank
- Cartridge Actuated Device (CAD), Propellant Actuated Device (PAD)
- Activation and control systems

- Engine inlets, and ducting
- Wing box
- Flaperon
- Static structural members
- Exterior skins, fairings, radomes, access doors, leading edge flap
- Landing gear
- Technology associated with the above items



Example of “600 Series”: “.y” parts for the F-16



- Aircraft tires
- Analog cockpit gauges and indicators
- Hydraulic System Filters
- Check valves
- Hydraulic and Fuel hoses, Fittings, Clips, Coupling
- Cockpit mirrors
- Beacons
- Urine collection systems
- Cockpit panel knobs, Switches, Buttons, Dials



USG End-Use Monitoring Programs



End-Use Checks - Dual-use items and munitions on the Commerce Control List (CCL) and “600-series” items.



Blue Lantern – Direct Commercial Sales (DCS) of United States Munitions List (USML) articles, technology, services, and brokering.



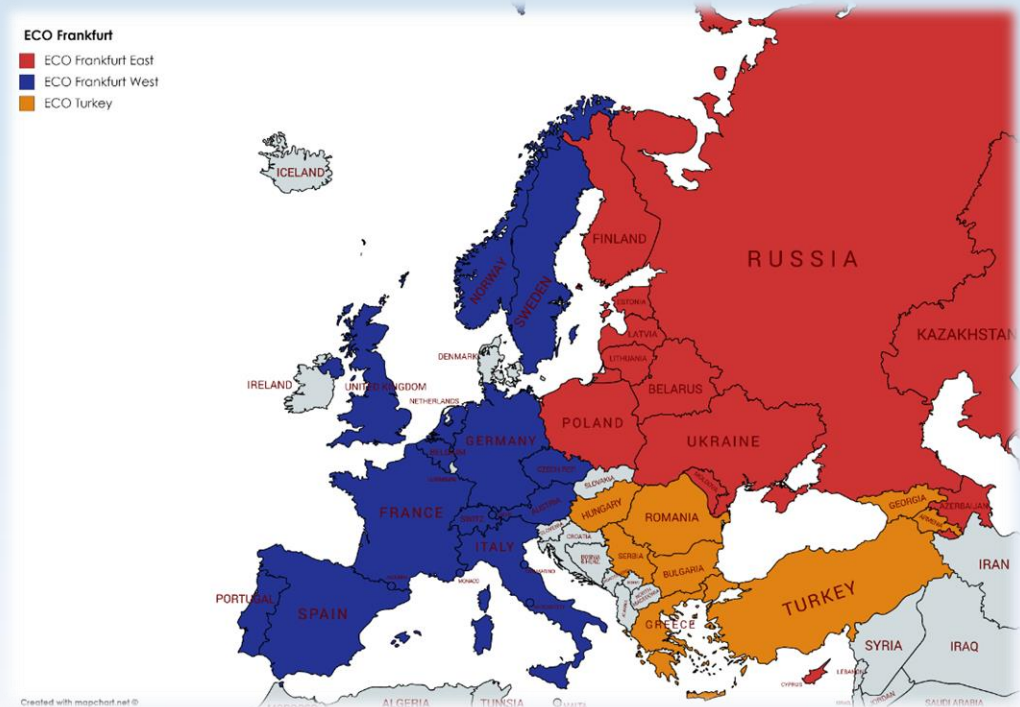
Golden Sentry - Foreign Military Sales (FMS) of defense articles and services via government-to-government channels.



End-Use Monitoring Program in Frankfurt

Why are End-Use Checks Important?

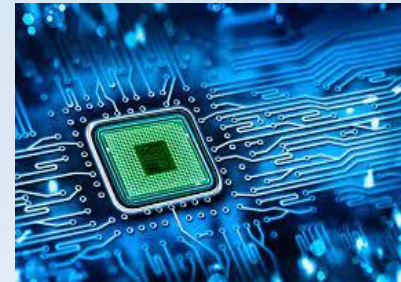
- ✓ Safeguard U.S.-origin items from diversion to unauthorized end uses/users
- ✓ Provide verification of foreign parties' reliability, which facilitates future trade
- ✓ Ensures compliance by all parties (U.S. & Foreign)





ECO Observations

- Companies unfamiliar with local Strategic Trade laws
- Not listing actual end-users or end-use license applications
- Over reliance on shippers and freight forwarders to obtain strategic goods permits
- Failure to conduct due diligence on end-user
- No local ICP – Internal Compliance Program
- Changing Rules on Countries and Technologies (Russia, China, Super Computers and Semiconductors)



Dual Use Example

Radio frequency Module



Intended Application



Point to point transmissions

Alternative Application



Examples of Dual-Use Items

Use of Concern

Gas centrifuge,
Fabrication of WMD



← Machine
Tools →



Missile Components



← Carbon
Fibers →



Mustard Gas



← Thiodiglycol →



Stabilize biological
agents for
biological weapons



← Freeze-Drying
Equipment →



Legitimate Use

Parts & components
of various machinery

Golf club shafts,
Fishing rods

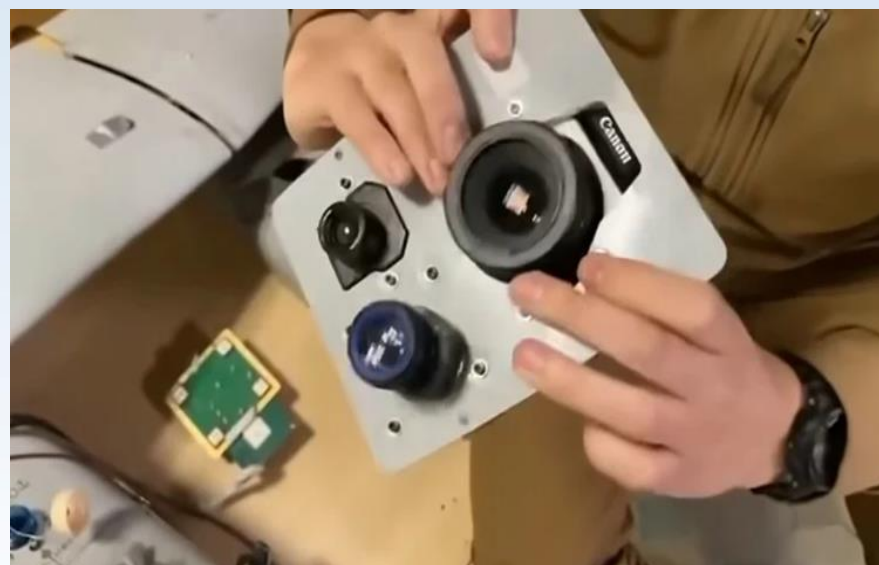
Plastics, Dyes, Inks

Instant Coffee



Monitoring Dual-Use: Challenging but Necessary

In 2022, Ukrainian soldier disassembled Russian Unmanned Aerial Vehicle (UAV) Orlan-10 and found it was made using an older model Canon DSLR camera, duct tape and bottle cap, highlighting the difficulty and importance of dual-use export controls.



What is an End-Use Check?

- An End-Use Check (EUC) is a ***physical verification*** on location with a party of the transaction to determine if the party is a reliable recipient of U.S. goods and that items are or will be used in accordance with the EAR.
- As part of its licensing process and preventive enforcement efforts, BIS selectively conducts end-use checks on certain dual-use and munitions exports.
- Pre-License Check (PLC): Establishes *bona fides* and validates information on export license applications PRIOR to shipment.
- Post-Shipment Verification (PSV): Strengthens assurances that all parties comply with an export license and licensing conditions to deter diversions AFTER shipment.
- Non-Licensed PSV: Measures compliance with U.S. export controls and monitors illicit diversion of U.S. exports.



Triggered Spark Gap (Controlled for Nuclear Proliferation-3A228)



Under What Authority?

- EAR §762.7(b) provides that foreign recipients of items subject to the EAR “shall produce all records required to be kept and make them available for inspection and copying upon request by an authorized agent, official, or employee of the Bureau of Industry and Security.”
- EAR § 1755 (b)(1)E of the Export Control Reform Act of 2018 directs the President of the United States to establish policies and procedures for the end use monitoring of exports, reexports, and in-country transfers” of items subject to the EAR. **As a condition of receiving items subject to the EAR, foreign consignees are required to provide disposition information concerning those items to BIS upon request.





End-Use Check Objectives

- Review transaction(s) from exporter to end user.
- Verify license condition compliance.
- Monitor compliance of non-licensed transaction(s).
- Confirm the end-use and end-user.
- Determine if U.S. exporter, consignees, and/or end users are reliable entities.
- Create a positive relationship with industry.





Transactional Documentation

BIS obtains and evaluates records for >2,000+ shipments a year.

- Ask for the following documentation: (This is a routine request and does not necessarily indicate BIS has any specific compliance concerns about the foreign consignee.)
 - Air waybills/bills of lading.
 - Purchase orders and customer contact information.
 - Commercial invoices and packing lists.
 - Commodity specifications and ECCN information.
 - Any export license, CCATS, etc.



SUPPLIER NAME ADDRESS <div style="background-color: black; height: 20px; width: 100%; margin-top: 5px;"></div> <div style="background-color: black; height: 20px; width: 100%; margin-top: 5px;"></div>	Purchase Order
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------

<small>Not Negotiable</small>	<small>(Air Consignment note)</small>	<small>Issued by</small>
Air WayBill		
<small>Copies 1, 2 and 3 of this Air Waybill are originals and have the same validity.</small>		
<small>Reference Number</small>		<small>Optional Shipping Information</small>
<small>Currency</small>	<small>CHGS Code</small>	<small>WT/VAL</small>
<small>PPD</small>	<small>COLL</small>	<small>Other</small>
<small>PPD</small>	<small>COLL</small>	<small>Declared Value for Carriage</small>
<small>Amount of Insurance</small>	<small>Declared Value for Customs</small>	
<small>INSURANCE - If carrier offers insurance, and such insurance is requested in accordance with the conditions thereof, indicate amount to be insured in figures in box marked "Amount of Insurance".</small>		

PACKING LIST		
<small>Order #</small>	<small>Date:</small>	
Qty	Part #	Description

Consequence of Less Than Favorable Determination



- If BIS is unable to conduct EUCs to assess a foreign party's compliance with the EAR, BIS may be required to take action. The EAR (Section 744.15) provides that foreign parties may be added to the Unverified List if:
 - BIS is unable to locate or contact the company to schedule an EUC.
 - The company is unable to confirm to BIS the ultimate disposition of items subject to the EAR during the conduct of an EUC.
 - The host government authorities refuse to schedule an EUC in a timely manner.





BIS Lists of Concern

- **Unverified List:** Alerts exporters about foreign persons whose *bona fides* could not be verified. License exceptions are not available and an export license or consignee statement maybe required.
 - 33 additions in FY2022 of Chinese parties
 - 43 removals – China, Germany, Indonesia, Mexico, and the UAE
- **Entity List:** Imposes restrictions on exports, absent license approval, on foreign persons involved in activities contrary to the national security or foreign policy interests of the United States.
 - >450 additions in FY2022
 - 79 in China, 295 in Russia
 - Other countries include Belarus, Belize, Estonia, Georgia, Israel, Japan, Kazakhstan, Latvia, Lithuania, Malaysia, Malta, Pakistan, Singapore, Slovakia, Spain, Turkey, Uzbekistan, United Arab Emirates, the United Kingdom, and Vietnam



Consolidated Screening List



Consolidated Screening List

<https://www.trade.gov/consolidated-screening-list>





Responding to Russia's Invasion of Ukraine

- BIS has imposed sweeping export controls on Russia and Belarus
- Overall U.S. exports to Russia have decreased by approximately 88% by value from February 24- July 1, 2022 as compared to the same period in 2021

BIS ENFORCEMENT ACTIONS

- Conducted outreach on new export controls to over 3,000 entities
- Detained or seized >240 shipments valued at >\$93 million
- Identified 180 commercial and private aircraft that have flown into Russia and/or Belarus in apparent violation of the EAR
- Issued Temporary Denial Orders (TDO) against Russian airlines and air cargo companies due to ongoing violations of comprehensive export controls on Russia
- Added ~330 parties in Russia, Belarus, and other countries providing support to Russia's military and/or defense industrial base to the Entity List
- Conducted ~450 end-use checks as part of surge to identify possible Russian diversion





2023: A New Era of Export Controls

- BIS added six entities in the People's Republic of China (PRC) to the Entity List for supporting the PRC's military modernization efforts.
- BIS expanded the scope of the Russian and Belarusian industry sector restrictions on certain exports- including luxury goods, oil and gas production, chem/bio precursors, & industrial/commercial items.
- BIS added 37 entities to the Entity List for, inter alia, contributing to Russia's military and/or defense industrial base and human rights violations in China.
- Microsoft ordered to pay 3.3 million to OFAC and BIS after voluntarily self-disclosing that a subsidiary and Microsoft Russia sold software without BIS authorization.
- Seagate Technology fined 300 million by BIS for allegedly selling approximately 7.4 million hard disk drives to Huawei Technologies Co. Limited without BIS authorization in violation of the foreign direct product rule, constituting the largest BIS penalty in history.

TAKE ACTION!



BIS's Semiconductor, Computing & Manufacturing Rule



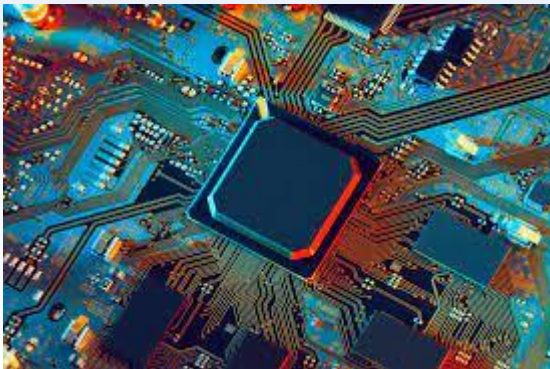
- 87 FR 62186 added certain semiconductor manufacturing equipment, advanced chips, and commodities containing such chips to the Commerce Control List (“CCL”)
- added new license requirements for certain items destined to China, including certain items for use in supercomputers, the development or production of semiconductors, including manufacturing equipment, and destined to semiconductor fabs in China that produce certain advanced chips
- restricts US persons from engaging in or facilitating activities supporting the development or production of certain integrated circuits (“ICs”) at fabs in China
- substantially expands the scope of items that are “subject to the EAR” under the foreign direct product (“FDP”) rules to cover additional items in the advanced computing and semiconductor sector produced outside the United States.





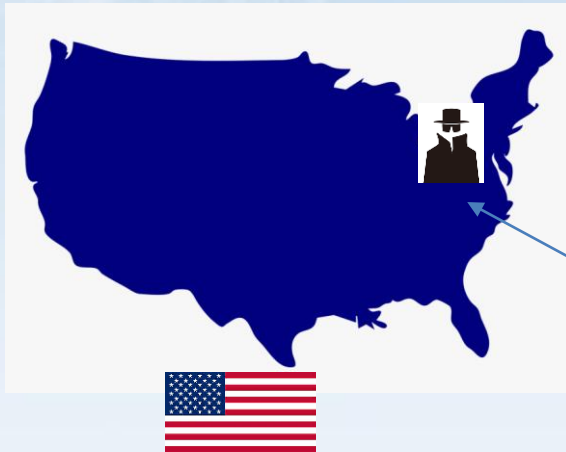
Case Study

- Post-Shipment Verification for 3A001 Electronic Integrated Circuits, transistors and amplifiers
- No License Required From U.S. to U.K.
- False Information listed on End-User Statement provided by U.K. company to U.S. Company
- U.S. Company believed the end-user was located in U.K.



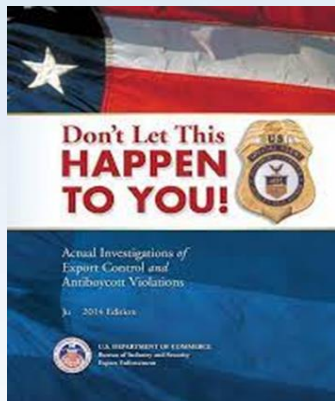


How it worked



Transshipment & Red Flags

- Delivery is planned for out-of-the-way destinations.
- A freight forwarding firm is listed as the product's final destination.
- The shipping route is abnormal for the product and destination.



Red Flag Indicators



1. **Shipment Parameters (e.g., value, weight, size):** Inconsistent with the commodity information
2. **Routing:** Circuitous or unusual route
3. **End Use:** Not suited for the country of destination
4. **Product Capabilities:** Inconsistent with consignee's line of business
5. **Consignee Appears to be a Sanctioned Party:** Listed name, address, or contact information
6. **Vague Commodity Description:** Missing or generic HS code; no control list number specified



Evolving Threats and Tradecraft



- Incentives to relocate R&D facilities overseas
- Joint ventures involving foreign entities
- Liaisons with universities that have ties to defense contractors or listed subcontractors
- Offers to provide marketing services in order to gain access/entry
- Recruitment by foreign intelligence services in various guises
- Red Flags/Know Your Customer: Illegitimate companies, insufficient customer knowledge of technology, multiple intermediate parties



BGI 华大

Red Flags



Things to Look for in Export Transactions to discover possible violations:

- ***The customer or its address is similar to one of the parties found on BIS' list of denied persons.***
- ***The customer or purchasing agent is reluctant to offer information about the end-use of the item.***
- The product's capabilities do not fit the buyer's line of business.
- The item ordered is incompatible with the technical level of the country to which it is being shipped.
- The customer is willing to pay cash for a very expensive item when the terms of sale would normally call for financing.
- The customer has little or no business background.
- The customer is unfamiliar with the product's performance characteristics but still wants the product.





Red Flags (continued)



- Routine installation, training, or maintenance services are declined by the customer.
- Delivery dates are vague, or deliveries are planned for out of the way destinations.
- ***A freight forwarding firm is listed as the product's final destination.***
- The shipping route is abnormal for the product and destination.
- Packaging is inconsistent with the stated method of shipment or destination.
- When questioned, the buyer is evasive and especially unclear about whether the purchased product is for domestic use, for export, or for reexport.
- ***see 15 CFR §732 – Supplement 3: “Know Your Customer” Guidance and Red Flags.***



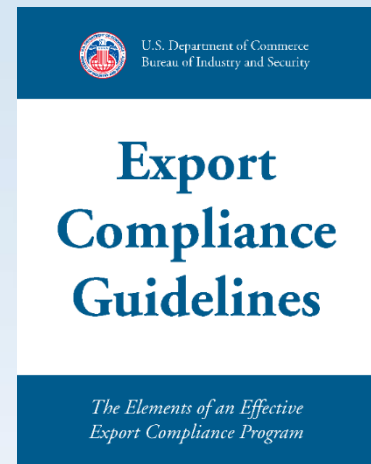
Elements of an Effective Export Compliance Program (ECP)



Best Practices



- Software to audit email
- Implementing Technology Control Plans (TCPs) for specific university programs
- Implementing an overall Export Compliance Program (ECP) including the elements recommended by BIS
- Associations: University specific and other general export related associations





Export Control: Joint Responsibility & Benefits

- Protecting national security is in the interests of the business community and BIS
- Culture of compliance:
 - Protects company reputation
 - Creates a level playing field
 - Creates trade benefits
 - Mitigates enforcement activities
- Government needs industry support...
...including facilitating successful end-use checks!



Partnering with Industry



- BIS's Export Control Officer program places a significant emphasis on working with industry partners abroad (just like we do in the United States)
- Educate on U.S. export controls and warn about diversion attempts (e.g., during outreach seminars, end-use checks)
 - Protects your business' reputation and intellectual property
 - Protects the collective national security interests of the U.S. and our allies
- Implementation of an Export Compliance Management Program is critical to successful export control compliance
 - Management commitment to training
 - Ensures uniform practices (e.g., use of U.S. Consolidated Screening List)
 - Provides significant mitigation in the case of violations through cooperation with enforcement (e.g., voluntary self-disclosure)





Resources from www.bis.doc.gov

Export Portal



FAQs

Encryption FAQs
Cuba FAQs
Hong Kong FAQs
EAR Definitions, Technology and Software,
Fundamental Research, and Patents FAQs
BIS 232 FAQs
SNAP-R FAQs
Huawei Entity Listing FAQs
Huawei Entity Listing Temporary General License
Extension FAQs

Training videos (11 Total)



Previous presentations





Contact Information

WWW.BIS.DOC.GOV

- Policy Guidance – List of Parties of Concern
- Frequently Asked Questions

Contact ERC Staff for end-user questions:

- 202-482-5991
- ERC@BIS.DOC.GOV

Contact Exporter Services for Licensing inquiries:

- 202-482-4811

Contact Regulatory Interpretation and Transition Guidance

- Regulatory Policy Division: rp2@bis.doc.gov , 1-202-482-2440

Outreach Assistance: Outreach and Educational Services Division

- Washington, DC: OESDseminar@bis.doc.gov, 1-202-482-4811; Western Regional Office: 1-949-660-0144

www.bis.doc.gov www.export.gov/ecr





BIS Contact Information

- **Forms and Telephone Numbers You Can Use to Contact BIS
(Office hours are Monday-Friday, 8:30am-5:30pm ET unless otherwise noted)**

Contact a Counselor

- To speak with an export counselor, you may call one of the following numbers:
(202) 482-4811 - Outreach and Educational Services Division (located in Washington, DC)

OR

e-mail your inquiry to the Export Counseling Division of the Office of Exporter Services at: ECDOEXS@bis.doc.gov

- **Anti-boycott compliance advice line:**
(202)482-2381
- **Encryption:**
(202) 482-0707





Thank you!

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