



1



2



Existing Controls related to Surveillance

- *Surreptitious Listening* – devices for intercepting live conversations without the consent of the parties involved
- *Law Enforcement Monitoring* – software that processes lawfully intercepted communications in order to extract personal information about users on the network
- *International Mobile Subscriber Identity (IMSI)-catchers* – products designed to trick mobile devices into providing subscriber information and other metadata without the user's consent
- *Forensics Tools* – products that circumvent authentication mechanisms and extract raw data from a computer or communications device

3

3



Recent and Ongoing Commerce/BIS Actions:

- Human Rights Crossover Rule
- Entity List Additions:
 - China
 - Other
- Business Advisories:
 - Xinjiang
 - Hong Kong
 - Burma
- Review of Emerging Technologies
- Support of Export Controls Human Rights Initiative

4

4



Human Rights Crossover Rule

- On October 6, 2020, BIS amended the Export Administration Regulations to allow consideration of human rights concerns when reviewing license applications for items controlled for all reasons except short supply (Sec. 742.7(b)(2))
- Clarified that items controlled for reasons other than Crime Control reasons will be reviewed to ensure they are not exported or reexported in support of human rights violations or abuses
- Examples include 5A002 servers or switches, 5D002 software and 6A003 cameras that may be used in a surveillance system

5

5



China: Surveillance-related Entity List Additions

- Since October 2019, BIS has added 29 Chinese commercial entities involved in the manufacture of high-technology for surveillance items to the Entity List that were implicated in or enabled human rights abuses, the majority in connection with China's campaign of repression in the Xinjiang Uyghur Autonomous Region, and several additions made in connection with similar abuses in China more broadly.
- With certain exceptions, addition to the Entity List entails a presumption of denial for items subject to the Export Administration Regulations

6

6

Bureau of Industry and Security
BIS2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY



China: Surveillance-related Entity List Additions

- Items/technologies involved include:
 - Artificial Intelligence
 - Biogenetic Analysis
 - Cameras
 - Drones
 - Facial Recognition
 - Mobile Device Trackers

7

7

Bureau of Industry and Security
BIS2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY



China: Surveillance-related Entity List Additions

- Examples include:
 - Cloudwalk Technology (facial recognition)
 - China Electronics Technology Group (mobile device tracking)
 - DJI (drones)
 - Hikvision (cameras)
 - Megvi (artificial intelligence)
 - Xinjiang Silk Road BGI (biogenetic analysis)

8

8

Bureau of Industry and Security
BIS2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY




Other Surveillance-related Entity List Additions

- NSO Group and Candiru (Israel)
 - Spyware provided to foreign governments that used this tool to maliciously target government officials, journalists, businesspeople, activists, academics, and embassy workers
- Positive Technologies (Russia) and Computer Security Initiative Consultancy PTE LTD (Singapore)
 - Cyber exploits used to gain access to information systems threatening the privacy and security of individuals and organizations worldwide

9

9

Bureau of Industry and Security
BIS2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY




Xinjiang Supply Chain Business Advisory

- On July 13, 2021, Commerce and interagency partners issued an updated advisory, highlighting risks and considerations for businesses with supply chain exposure to Xinjiang
 - Provided background on unprecedented, intrusive, high-technology surveillance system across Xinjiang, focused on monitoring ethnic minorities
 - Discussed risk of supplying U.S. commodities, software, and technology to Chinese commercial entities enabling surveillance by the Government of China over Xinjiang, including items related to the genetic collection and analysis of ethnic minorities
 - Highlighted risk of investing in such commercial entities

10

10

Bureau of Industry and Security
BIS2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY





Hong Kong Business Advisory

- On July 16, 2021, Commerce and interagency partners issued an advisory highlighting risks and considerations for businesses resulting from Hong Kong's reduction in autonomy as a result of China's imposition of a June 2020 National Security Law
 - Provided background on loss of freedom and protected rights
 - Discussed risk associated with electronic surveillance without warrants and the surrender of data to authorities

11

11

Bureau of Industry and Security
BIS2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY



Burma Business Advisory

- On January 26, 2022, Commerce and interagency partners issued an advisory highlighting risks and considerations for businesses resulting from the overthrow of Burma's democratically elected civilian government by the Burmese military
 - Discussed how telecommunications and internet surveillance have contributed to violent crackdowns on the people of Burma, including reports of physical assaults and enforced disappearances in retaliation for their online and offline activities
 - Noted that state-owned telecommunications provider Myanmar Posts and Telecommunications (MPT) actively collaborates with the regime's surveillance program

12

12

Bureau of Industry and Security
BIS 2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY



Review of Emerging Technologies

- BIS is reviewing emerging technologies to determine their impact on the promotion and protection of human rights
 - Digital technologies pose the greatest challenge
 - Seeking input from academia, advocacy organizations, business and industry
 - July 2020 Notice of Inquiry

13

13

Bureau of Industry and Security
BIS 2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY





Export Controls Human Rights Initiative

- Multilateral commitment arising from the 2021 Summit for Democracy to protect legitimate trade in and responsible use of relevant technologies while preventing the provision to authoritarian governments of surveillance tools that may result in serious human rights abuses
- Seeks to establish a voluntary Code of Conduct around which like-minded countries could pledge to employ export controls to meet this commitment
- Pledges consultation with academia, industry and other stakeholders

14

14

Bureau of Industry and Security
BIS 2022 UPDATE CONFERENCE ON
EXPORT CONTROLS & POLICY



Questions?

Steven Schrader
Steven.Schrader@bis.doc.gov
202-482-1338

Foreign Policy Division
Foreign.Policy@bis.doc.gov
202-482-4252