

Bureau of Industry and Security

# BIS 2020

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## POLICY AND REGULATORY UPDATES

A DIGITAL EXPERIENCE

September 2, 2020



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A DIGITAL EXPERIENCE



# Sanctions & Foreign Policy-based Export Controls

Foreign Policy Division  
Office of Nonproliferation  
and Treaty Compliance



## Cuba

- Authorization is required for all items subject to the EAR
- Favorable licensing policy for certain telecommunications and safety of flight items; also for human rights and non-governmental organizations
- Case-by-case review policy for items to meet the needs of the Cuban people
- October 2019 Rule (84 FR 56117)
  - *De minimis*
  - Licensing policy for aircraft leases
  - License Exception Aircraft, Vessels, and Spacecraft (AVS)
  - License Exception Support for the Cuban People (SCP)

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## Iran

- The Treasury Department's Office of Foreign Assets Control (OFAC) is the primary licensing agency exports and reexports to Iran
- BIS license requirements apply to items on the Commerce Control List (CCL)
- If OFAC authorizes an export or reexport to Iran, separate BIS authorization is generally not required unless the transaction involves a prohibited end use or end user

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## North Korea

- Authorization is required for all items subject to the EAR
  - Except food and medicine designated EAR99
- Favorable licensing policy
  - Humanitarian items intended for the benefit of the North Korean people
  - Items in support of United Nations humanitarian efforts
  - Certain agricultural commodities or medical devices
- General Policy of Denial
  - Items controlled for nuclear nonproliferation and missile technology
  - Arms and related materiel
  - Items specified by the UN, including items the UN Security Council determines could contribute to the country's WMD programs
  - "Luxury goods"

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## North Korea Ballistic Missile Advisory

- <https://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/north-korea>
- Is your item related to the items in the Annex of the advisory?
- You are responsible for identifying your client's standard business operations, including their potential clients, if your client is a reseller
- You may be held liable if your products are found en route to or exported to North Korea
- You must know your customer and resolve red flags
- Contact BIS or OFAC if any aspect of your transaction appears suspicious

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## Sudan

- General policy of approval for safety of flight
- Case-by-case review of telecommunications items for civil end-use, items for the United Nations, and other humanitarian efforts

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## Syria

- Authorization is required for all items subject to the EAR
  - Except food and medicine designated EAR99
- Case-by-case review of items in support of:
  - the Syrian people including for agricultural production, power generation, sanitation and transportation
  - activities of the U.S. Government and United Nations
- Case-by-case review also applies to:
  - medical devices and medicine on the CCL
  - parts and components intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft
  - telecommunications equipment and associated computers, software, technology
- General policy of denial for most other items

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## Hong Kong's Export Control Status

- On May 27, 2020, due to the People's Republic of China (China)'s imposition of national security legislation upon Hong Kong, the Secretary of State declared that Hong Kong no longer warrants the same treatment under U.S. law as it had received since July 1997
- Under 85 FR 45998, BIS suspended the use of any license exception to Hong Kong other than what would be granted already to destinations in mainland China
- Under Executive Order 13936, Hong Kong will be treated under the exact same licensing policy as destinations in mainland China

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## Entity List Actions Related to Xinjiang, China

- 48 Chinese entities have recently been added to the Entity List in three separate rules based on their participation in human rights abuses committed against ethnic Muslim minorities from the Xinjiang Uyghur Autonomous Region in China.
  - These abuses include mass arbitrary detention, high-technology surveillance, forced labor, and abusive genetic collection and testing
- Entity List rule 1 – October 2019
  - 20 Chinese government entities, 8 commercial entities
- Entity List rule 2 – June 2020
  - 1 Chinese government entity, 8 commercial entities
- Entity List rule 3 – July 2020
  - 11 commercial entities
- A license is now required for exports, exports and/or transfers (in-country) of all U.S. origin items to these entities. There is a “presumption of denial” licensing policy with limited exceptions.

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## Xinjiang Supply Chain Business Advisory

- On July 1, 2020 the Department of Commerce, along with the Departments of State, the Treasury, and Homeland Security, issued a business advisory to highlight risks and considerations for businesses with supply chain exposure to entities engaged in forced labor and other human rights abuses committed against Muslim ethnic minorities from Xinjiang.
- The document may be found here:  
<https://www.bis.doc.gov/index.php/documents/pdfs/2569-xinjiang-supply-chain-business-advisory-final-for-508/file>

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## Advanced Surveillance and Crime Control

- Surveillance
  - Ongoing review of emerging technology for advanced surveillance
  - Biometrics, forensic software, and other electronic surveillance commodities, software, and technology
- Upcoming Notice of Inquiry
  - On July 17, 2020, BIS published a NOI seeking public comments on new and current controls for advanced surveillance and Crime Control and Detection items
- Water Cannon
  - New CC1 license requirement on exports and reexports of water cannons and “specially designed” parts and components

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Questions?

Contact the Foreign Policy Division

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