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COMMERCE IDENTIFIES EMERGING TECHNOLOGY, EXPANDS CONTROLS ON EXPORTS OF SOFTWARE CAPABLE OF CONTRIBUTING TO BIOLOGICAL WEAPONS PROLIFERATION

WASHINGTON – The Commerce Department’s Bureau of Industry and Security (BIS) has released [a final rule](#) to implement a multilateral agreement to control certain biotechnology software that could be misused for biological weapons purposes. This rule is part of the Department’s continuing work on adding emerging technologies to the Commerce Control List (CCL), pursuant to Section 1758 of the Export Control Reform Act of 2018 (ECRA). Before today, BIS issued four rules implementing controls on 37 technologies since 2018, all but one of which were implemented through the multilateral regime process.

This final rule amends the Export Administration Regulations (EAR) to implement the decision finalized by the multilateral Australia Group (AG) on August 6, 2021. This decision added controls on nucleic acid assembler and synthesizer software that is capable of designing and building functional genetic elements from digital sequence data. While this software has substantial beneficial civilian applications, it can be misused for biological weapons purposes.

Prior to this AG decision, BIS, consistent with the interagency process described in ECRA, identified this software as a technology to be evaluated as an emerging technology. Adding this software to the Commerce Control List ensures the proper level of control to protect against its misuse, while the multilateral control provides a level playing field for US companies.

In implementing this control, the Commerce Department continues to identify and implement appropriate controls on emerging technologies that are essential to the national security of the United States. By strengthening export controls on a software that could be exploited for biological weapons proliferation, this rule represents another step forward in preventing the misuse of this emerging technology by foreign adversaries and strengthening export control regimes in coordination with allies and partners.

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