

U.S. Government Tightens Export Control of Direct Products of U.S. Technologies to Huawei and Dual-Use Items to China, Russia, and Venezuela

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- ¹ See Commerce Addresses Huawei's Efforts to Undermine Entity List, Restricts Products Designed and Produced with U.S. Technologies, Press Releases, *U.S. Department of Commerce*, May 15, 2020, available at <https://www.commerce.gov/news/press-releases/2020/05/commerce-addresses-huaweis-efforts-undermine-entity-list-restricts>.
- ² See 15 C.F.R. §736.2(b)(3).
- ³ See Export Administration Regulations: Amendments to General Prohibition Three (Foreign-Produced Direct Product Rule) and the Entity List, Docket No. 200514-0100, *Bureau of Industry and Security, Department of Commerce*, available at: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-10856.pdf>.
- ⁴ See Michael R. Pompeo, "The United States Protects National Security and Integrity of 5G Networks," Press Statement, *U.S. Department of State*, May 15, 2020, available at <https://www.state.gov/translations/>.
- ⁵ See Bob Davis and Katy Stech Ferek, "U.S. Moves to Cut Off Chip Supplies to Huawei," *The Wall Street Journal*, May 15, 2020, available at <https://www.wsj.com/articles/u-s-moves-to-cut-off-chip-supplies-to-huawei-11589545335>.
- ⁶ See Foreign Direct Product Rule Changes Made by US Government, Press Release, *Huawei*, May 18, 2020, available at: <https://www.huawei.eu/press-release/foreign-direct-product-rule-changes-made-us-government>.
- ⁷ See Alex Lawson, "US Aims To Muscle Huawei Out Of Global Chip Supply Chain," *Law360*, May 15, 2020, available at https://www.law360.com/aerospace/articles/1273978/us-aims-to-muscle-huawei-out-of-global-chip-supply-chain?nl_pk=461af435-a4ab-4457-8b01-54bb521c1625&utm_source=newsletter&utm_medium=email&utm_campaign=aerospace.
- ⁸ See Elimination of License Exception Civil End Users (CIV), 85 Fed. Reg. 23470, April 28, 2020, available at <https://www.federalregister.gov/documents/2020/04/28/2020-07240/elimination-of-license-exception-civil-end-users-civ>. The Country Group List can be found at 31 C.F.R. Part 740, Supp.1. <https://www.bis.doc.gov/index.php/documents/regulation-docs/2255-supplement-no-1-to-part-740-country-groups-1/file>.
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ See 31 C.F.R. § 742.4, which describes a general policy of approval for civilian end uses if BIS is able to determine that the exported or re-exported items or technology would not contribute to the military potential of the recipient country to the detriment of U.S. national security. The revocation of License Exception CIV underscores BIS's determination that ensuring products do not contribute to military end uses requires case-by-case review, as described in section 742.4.
- ¹² See Expansion of Export Controls for Military End Use or Military End Users in China, Russia, or Venezuela, 85 Fed. Reg. 23459, April 28, 2020, available at: <https://www.federalregister.gov/documents/2020/04/28/2020-07241/expansion-of-export-reexport-and-transfer-in-country-controls-for-military-end-use-or-military-end>.

¹³ See 72 Fed. Reg. 33646.

¹⁴ See 79 Fed. Reg. 55608; 79 Fed. Reg. 66288.

¹⁵ Specifically, this rule adds the following Export Control Classification Numbers (ECCNs) 2A290, 2A291, 2B999, 2D290, 3A991, 3A992, 3A999, 3B991, 3B992, 3C992, 3D991, 5B991, 5A992, 5D992, 6A991, 6A996, and 9B990. Additionally, this rule expands the range of items under ECCNs 3A992, 8A992, and 9A991. See 85 Fed. Reg. 23459.

¹⁶ See Modification of License Exception Additional Permissive Re-exports (APR), 85 Fed. Reg. 23496, April 28, 2020, available at: <https://www.federalregister.gov/documents/2020/04/28/2020-07239/modification-of-license-exception-additional-permissive-reexports-apr>.

¹⁷ The reasons include nuclear nonproliferation, chemical and biological weapons, missile technology, significant item, and crime control. See 15 C.F.R. § 740.16(a).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*