

# US Commerce Department Expands Export Restrictions Targeting Russia and Belarus

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On February 24, 2023, the U.S. Department of Commerce's Bureau of Industry and Security (BIS) announced four new rules expanding restrictions on exports to Russia and Belarus. The revisions to the [Export Administration Regulations](#) (EAR) and additions to the Entity List came as we pass the one-year mark of Russia's 2022 invasion of Ukraine, and represent the latest in the United States' ongoing efforts to prevent Russia and Belarus from obtaining products or technologies that could assist in the war efforts.

The companies that are being added to the Entity List have been identified as contributing to Russia's military and/or defense industrial base, or otherwise engaging in activities contrary to U.S. foreign policy interests by providing support for Russia's ongoing operations in Ukraine.

Companies should carefully review these new measures to confirm if they may have items subject to the new restrictions, and if they have partners or customers that may have been listed on the Entity List.<sup>1</sup>

## Expansion of Industry Sector Sanctions and Restrictions on Exports of Luxury Goods

In its new rules, BIS expanded the scope of the EAR's industry sector and luxury goods export controls, and made certain revisions to these measures. To further undermine the Russian and Belarusian industrial bases, BIS expanded [Supplement no. 4 to Part 746 of the EAR](#) by adding 322 additional HTS-6 Code entries corresponding to 322 industrial items. As a result, these items will now require a license for export or re-export to or transfer within Russia or Belarus. Furthermore, rather than relying on Schedule B export numbers and descriptions, Supplement No. 4 to Part 746 of the EAR will now identify items by their HTS-6 Codes.

BIS also expanded its restrictions on luxury goods destined to Russia or Belarus, or for designated Russian and Belarusian oligarchs and other malign actors, by identifying 276 additional items that will now require a license when destined to such locations or persons. The luxury goods identified in BIS's recent rule fall under a wide variety of product areas, including, *e.g.*, nuclear reactor parts, electrical equipment (including domestic products, such as hair dryers and microwave ovens), and musical instruments.

## Restrictions Aimed at Blocking Iran's Supply of UAVs to Russia

BIS has also continued to announce new measures that indirectly target Russia's military base. BIS announced new export control measures intended to prevent Iran from providing unmanned aerial vehicles (UAVs) to Russia for use in Ukraine.

Under the new controls, certain EAR99 items will now be subject to licensing requirements even if no U.S. persons are involved in the transaction. Those items are identified in HTS-6 codes under a new supplement to the EAR. Furthermore, BIS announced a new foreign direct product rule specific to Iran that will now apply to the EAR99 items identified in the supplement and certain other items identified on the Commerce Control List.

<sup>1</sup> This client alert is for informational purposes only and does not constitute legal advice. Complex assessments often have to be made as to which sanctions regime applies in any given instance, given the multinational touch points of many entities and individuals. In that regard, given the complex and dynamic nature of these sanctions regimes, there may be developments not captured in this summary. Moreover, while the summary was accurate when written, it may become inaccurate over time given developments. For all of these reasons, you should consult with a qualified attorney before making any judgments relating to sanctions, as there are potentially severe consequences of failing to adhere fully to sanctions restrictions.

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## Additional Entities Added to Entity List

Throughout Russia's invasion of Ukraine, BIS has continued to update the Entity List with additional companies that it has identified as having engaged in, or likely to become engaged in, activities that support Russia's operations. Exports to those entities are subject to additional licensing requirements on top of any requirements already imposed under the EAR.

On February 24, 2023, BIS announced that it was adding 86 additional parties to the Entity List, which is found in [Supplement no. 4 to Part 744 of the EAR](#). Seventy-nine of the entities were listed under Russia, while the remaining entities were listed under Canada (2), China (5), France (1), Luxembourg (1), and the Netherlands (1).<sup>2</sup> Entities can be added to the Entity List if there is reasonable cause to believe that they have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the U.S.

he newly added entities under countries other than Russia, and three of the Russian entities, were listed because they had been identified as significantly contributing to Russia's military and/or defense industrial base, and otherwise engaging in activities contrary to U.S. foreign policy interests. Exports to these entities are now subject to license requirements for all items subject to the EAR, with a license review policy of denial for all items other than food and medicine designated as EAR99 (which will be reviewed on a case-by-case basis). The rule notes that, although certain of these entities are located in U.S.-allied and partnered countries, the listing of such entities is not an action against the governments of such countries.

<sup>2</sup> Although the entry for an entity on the Entity List includes an entity's address and associated jurisdictions, entities on the Entity List remain subject to the licensing requirements and license review policy set forth in their Entity List entries regardless of their location.

Five of the Russian entities were listed for engaging in various activities contrary to U.S. foreign policy interests, including providing support for Russia's filtration operations in occupied areas of Ukraine through the use of biometric technology to suppress Ukrainian resistance. Five other Russian entities were listed for having attempted to acquire or acquiring U.S.-origin items in support of activities contrary to U.S. national security, and 66 additional Russian entities were listed for acquiring or attempting to acquire U.S.-origin items in support of Russia's military. Exports to these Russian entities of all items subject to the EAR will also now be subject to licensing requirements, with a license review policy of denial for all items except food and medicine designated as EAR99 or items for U.S. Government-supported use in the International Space Station (which will be reviewed on a case-by-case basis).

## Conclusion

BIS has announced and implemented three types of sweeping new export restrictions targeting Russia throughout the last year. First, many additional items are now subject to BIS licensing requirements when destined to Russia. Second, BIS has created several mechanisms to expand the scope of items subject to the EAR when destined for Russia or Belarus or to parties providing material assistance to Russia's war efforts. Third, BIS has used the Entity List to identify and prevent companies that have engaged in acts in support of Russia's war efforts and other malign activity from obtaining U.S. products and technologies.

As the Russian invasion of Ukraine continues, companies should expect that BIS will implement additional Russia-related export restrictions that will expand the scope of items subject to licensing requirements and the mechanisms by which such items may become subject to these restrictions.

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