

US Commerce Dept. Rule Expands Licensing Requirements for AI-Related Materials

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On January 13, 2025, the Department of Commerce, Bureau of Industry and Security (BIS) released an [interim final rule](#) establishing (i) expanded export licensing requirements for the export of advanced computing integrated circuits (ICs) facilitating the development of the most advanced artificial intelligence (AI) models, and (ii) new export controls for the model weights of those AI models (together, covered AI items). Entities located in, headquartered in or with ultimate parents headquartered in any of 18 close U.S. allies (Supplement 5 Countries) are generally exempted from the new controls. Entities from China (including Hong Kong and Macau) and other countries subject to a U.S. arms embargo, or with parent companies located in those countries, are generally prohibited from receiving covered AI items. Entities from all other countries are subject to licensing requirements and country-specific advanced computing IC quotas. The rule establishes a Validated End-User program to provide additional flexibility to entities that comply with extensive diligence and security requirements. Finally, “permanent regular employees” of companies headquartered in or with parents headquartered in a Supplement 5 Country will be exempt from “deemed export” licensing requirements in connection with access to covered AI technology through their employment.

The rule, which was promulgated pursuant to the Export Control Reform Act of 2018, has not been suspended or revised by any of the Trump administration’s executive actions thus far.

Licensing Regimes & License Exceptions

Advanced Computing IC License Regime

The rule places worldwide controls on advanced computing ICs classified under Export Control Classification Numbers (ECCNs) 3A090.a and 4A090.a and the corresponding .z controls, subject to three license exceptions. First, under new License Exception Artificial Intelligence Authorization (AIA), covered ICs are exempt from licensing requirements to Supplement 5 Countries — *i.e.*, countries identified in new Supplement 5 to Part 740 of the Export Administration Regulations (EAR) — provided that neither the entity using the chips nor its ultimate parent is headquartered outside of a Supplement 5 country. All other shipments of covered ICs generally require a license. License applications for export to entities in, headquartered in or with ultimate parents headquartered in China (including Hong Kong and Macau) and other countries subject to a U.S. arms embargo (Prohibited Countries) will be reviewed with a presumption of denial. License applications for other destinations will be reviewed with a presumption of approval, subject to a number of conditions and aggregate caps on exports on a jurisdiction-by-jurisdiction basis.

License Exceptions Advanced Compute Manufacturing (ACM) and Low Processing Performance (LPP) authorize exports of advanced computing ICs for certain end-uses/end-users and in certain limited quantities. Specifically, License Exception ACM authorizes the export of advanced computing ICs to private sector end-users outside of Prohibited Countries for development, production or storage, provided neither the entity nor its ultimate parent is headquartered in a Prohibited Country. In addition, and recognizing that substantial quantities of advanced computing ICs are required to develop the types of AI models of concern to the United States, BIS established License Exception LPP, which authorizes exports of a limited number of controlled chips to end-users outside of Prohibited Countries for less advanced AI modeling, provided neither the entity nor its ultimate parent is headquartered in a Prohibited Country.

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AI Model Weights License Regime

The new rule establishes new ECCN 4E091 and a slightly less restrictive worldwide licensing regime for model weights for AI models trained utilizing 10^{26} or more “operations,” as defined in the new ECCN. License Exception AIA will authorize the export of 4E091 technology to Supplement 5 Country-headquartered entities in any country outside of Prohibited Countries. (Conversely, License Exception AIA only authorizes the export of advanced computing ICs to Supplement 5 Countries.) Export licenses to entities with ultimate parents headquartered outside a Supplement 5 Country will be reviewed with a presumption of denial.

Validated End-User Programs

The new rule amends the Data Center Validated End-User (DC VEU) program — further divided into a universal VEU (UVEU) and national VEU (NVEU) authorization — to exempt eligible data center owners and operators from certain license requirements. The DC VEU authorizes eligible entities operating outside of Supplement 5 Countries to receive exports and reexports of advanced computing ICs, subject to strict security and reporting requirements. Only companies headquartered in, or with ultimate parents headquartered in, Supplement 5 Countries can apply for the UVEU program. All other companies, except those headquartered in or with ultimate parents headquartered in a Prohibited Country, can apply for the NVEU authorization that exempts entities from repeat export licenses in a single country. Both VEU programs can significantly reduce regulatory and logistical burdens, particularly for entities sourcing from multiple suppliers. Geographic allocations and quantity limitations will still apply to entities authorized through either VEU program.

Compliance

While the rule became effective as of January 13, 2025, companies have until May 15, 2025, to comply with most of the new restrictions, and compliance with certain security requirements will not be required until January 15, 2026. Whether the Trump administration will propose significant changes to the rule, which will be open for comment through May 15, 2025, is not yet clear.

Supplement 5 Countries

Australia	France	Netherlands	Sweden
Belgium	Germany	New Zealand	Taiwan
Canada	Ireland	Norway	United Kingdom
Denmark	Italy	Republic of Korea	United States
Finland	Japan	Spain	

Prohibited Countries

Afghanistan	Congo	Lebanon	Somalia
Belarus	Cuba	Libya	South Sudan
Burma	Eritrea	Macau	Sudan
Cambodia	Haiti	Nicaragua	Syria
Central African Republic	Iran	North Korea	Venezuela
China	Iraq	Russia	Zimbabwe