

On January 25, 2024, the US Department of Commerce Bureau of Industry and Security (BIS) published amendments to the Export Administration Regulations (EAR) expanding the sanctions against Russia and Belarus through new and revised licensing requirements. The amendments also refined existing export controls on Russia, Belarus and Iran to enhance the effectiveness of, and better align the controls with, those of US allies and partners.

These amendments to the EAR are in harmony with the wave of increasingly restrictive sanctions against Russia beginning in February 2022 (see our [alert](#)) and again in February 2023 (see our [alert](#)).

New Rules – Amendments to the EAR

The new final rules provide regulatory revisions aimed at enhancing and strengthening the EAR's sanctions against Russia, Belarus, the occupied region of Ukraine, and Iran, described as follows:

Imposition of New Export Controls on Russia, Belarus and Iran, Including Changes To Align Controls With Those Imposed by US Allies and Partners

- Industry Sector Sanctions (changes to Supplement No. 4 to Part 746)
 - Expands the scope of the Russian and Belarusian Industry Sector Sanctions pursuant to § 746.5(a)(1)(ii) by adding 94 HTS-6 Codes to Supplement No. 4 that will now require a license for export or reexport to, or transfer within Russia or Belarus. With this new rule, BIS will now be controlling all of harmonized system Chapter 88 (aircraft, spacecraft, and parts thereof).
- Sanctions against Russia, Belarus, and Iran (changes to Supplement No. 7 to Part 746)
 - Expands the license requirement for items destined to Iran, Russia or Belarus under §746.7(a)(1)(ii) and §746.8(a)(2) by adding one additional HTS-6 Code entry ((8529.10)
 - includes a variety of antennas, antenna reflectors and parts thereof)
- *De minimis* US content (changes to §734.4)
 - Expands the scope of §734.4(a)(6)(ii) by adding Belarus and Russia so that there is no *de minimis* level for foreign-made items that incorporate US origin 9x515 or “600 series” y. items when destined to Belarus or Russia

Corrections and Clarification to Existing Controls on Russia and Belarus

- Export controls on the temporarily occupied Crimea region of Ukraine (changes to §746.6)
 - Expands §746.6 to include a license exclusion for exports, reexports and transfers to or within the occupied Crimea region related to deployments made by the Armed Forces of Ukraine
- Export controls on luxury goods (clarification of §746.10(a)(3))
 - Clarifies that the *de minimis* exclusion that applies in Supplement No. 3 to Part 746 (where certain US-origin EAR99 items are not considered US-controlled content for purposes of the *de minimis* rule when incorporated into certain foreign-made items) also applies to luxury good items identified in Supplement No. 5 to Part 746
- Clarification of how exporters should treat items that are controlled for export, reexport or transfer to or within Russia or Belarus by more than one section of the EAR
 - Clarifies that controls in §746.8 using export control classification numbers (ECCNs) should be reviewed before controls in §746.5 using HTS-6 codes identified in Supplement No. 4 to Part 746, or descriptions in Supplement No. 6. BIS explains that a license is not required under §746.5 or §745.10 for items listed in Supplement No. 4 or 6 when that item would already require a license pursuant to § 746.8 due to the item's ECCN.
 - However, the end-use control in §746.5(a)(1)(i) and §746.10(a)(2) applies more broadly than the destination scope in §746.8, and, therefore, the license requirement applies for these subsections even for items that require a license pursuant to § 746.8 due to the item's ECCN.
- Clarification that although fasteners are excluded from the scope of supplements No. 2, 4, 5, and 7, fasteners are still subject to military and military-intelligence license requirements under §744.21 and §744.22 for Russia and Belarus as well as any other Part 744 license requirement that applies to all EAR items

- Harmonization of license exceptions under §§746.5, 746.8 and 746.10 to include a common set of license exceptions for Russia and Belarus controls under Part 746 of the EAR except as limited by the respective (c) paragraphs
- Clarification that “medicines” are excluded from the scope of Supplement No. 6 to part 746, which identifies items subject to the Russian and Belarusian Industry Sector Sanctions pursuant to § 746.5(a)(1)(iii)
- Adoption of a case-by-case license review policy for applications related to safety of flight under §§ 746.5 and 746.10
- Clarification that firearms previously exported, reexported or transferred to Ukraine under a BIS license can be temporarily imported for repair or replacement and returned to Ukraine under License Exception RPL (15 CFR 740.10(b)(4)(i))

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