



EIB World Trade Headlines

Evolutions In Business • www.eib.com • (978) 256-0438
Fax: (978) 250-4529 • P.O. Box 4008, Chelmsford, MA 01824

September 1, 2020 - Volume 12, Issue 15



BIS FINES SINGAPORE COMPANY AND ITS CHAIRMAN OVER \$31 MILLION FOR USING U.S. EXPORT CONTROLLED EQUIPMENT TO CONDUCT A SEISMIC SURVEY IN IRANIAN WATERS

On August 19, 2020, BIS Acting Under Secretary Cordell Hull issued a final order imposing a \$31,425,760.00 penalty on Singapore based Nordic Maritime Pte. Ltd. ("Nordic") and its Chairman, Morten Innhaug ("Innhaug"). The order imposing a civil penalty followed an earlier decision to impose a 15 year denial order against Nordic and Innhaug. This penalty was recommended by U.S. Coast Guard Administrative Law Judge Dean C. Metry based on a BIS investigation into the unlawful use of U.S. origin subsea survey equipment in Iranian territorial waters. In July 2011, Reflect Geophysical (Reflect) obtained a license from BIS to re-export subsea survey equipment controlled on national security and anti-terrorism grounds. The equipment was loaded onto the M/V Orient Explorer, a vessel owned by DMNG, a Russian state-owned company. In March 2012, Reflect lost control of the equipment aboard the vessel in Singapore due to DMNG exercising a lien over the controlled surveying equipment as a result of a contractual dispute. Nordic subsequently gained control of the equipment by chartering the M/V Orient Explorer from DMNG.

In April 2012, Reflect sent a cease and desist letter to DMNG, Nordic, and Innhaug cautioning the parties that the use of Reflect's equipment in Iranian waters would violate the terms of the BIS issued re-export license. Despite the warning by Reflect, Nordic used the controlled equipment to perform a 3D offshore seismic survey in the Forouz B natural gas field in Iranian territorial waters. The survey was conducted pursuant to a contract that Nordic had with Mapna International FZE, a subsidiary of Mapna Group, also known as the Iran Power Plant Management Company. Nordic did not obtain authorization from either BIS or the Department of Treasury's Office of Foreign Assets Control.

"I am very proud of the special agents in BIS Export Enforcement who continue their relentless pursuit of national security investigations - no matter where they occur around the world," said P. Lee Smith, Performing the Nonexclusive Functions and Duties of the Assistant Secretary for Export Enforcement.

*(*Continued On The Following Page)*

NEWSLETTER NOTES

- * BIS FINES SINGAPORE COMPANY ...
- * Clarification ...
- * Exclusive: U.S. to tighten restrictions ...
- * Green recovery or 'nightmare' f...
- * What a U.S. T...
- * Commerce Department Further ...
- * Commerce Applauds NAPA Study ...
- * TikTok filing lawsuit against Trump ...
- * Boston startup finds US gigs for African ...
- * BILLING CODE 3510-33-P
- * Commerce Department Adds 24 Chinese ...
- * WorkForce Training Fund
- * Order Regarding ...

During the investigation, Nordic provided BIS a written submission falsely stating that Reflect never advised Nordic that the survey equipment was subject to a BIS re-export license, never communicated any BIS export license conditions controlling the survey equipment and never provided a copy of the BIS license to Nordic.

Judge Metry found that Nordic committed three violations when it illegally re-exported certain equipment to Iran, acting with knowledge when it illegally reexported the equipment and made false and misleading statements to BIS during the investigation. Innhaug was found to have aided and abetted Nordic in violating the regulations. The Houston Resident Office, Office of Export Enforcement, Bureau of Industry and Security investigated the case. Gregory Michelsen and Zachary Klein, Office of Chief Counsel for the Bureau of Industry and Security, prosecuted the case.

Clarification of Entity List Requirements for Listed Entities When Acting as a Party to the Transaction under the Export Administration Regulations (EAR)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this final rule, the Bureau of Industry and Security (BIS) is clarifying the supplemental license requirements for parties listed on the Entity List pursuant to the Export Control Reform Act of 2018 (ECRA). Specifically, this final rule clarifies the Entity List's supplemental licensing requirements to state that these end-user controls apply to any listed entity when that entity is acting as a purchaser, intermediate or ultimate consignee, or end-user as defined in the Export Administration Regulations (EAR).

BILLING CODE: 3510-33-P

FOR FURTHER INFORMATION: Chair, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION: Background
The Entity List (Supplement No. 4 to part 744 of the Export Administration Regulations (EAR)) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities 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 United States.

(*Continued On The Following Column)

The license review policy for each listed entity is identified in the "License review policy" column on the Entity List and the impact on the availability of license exceptions is described in the relevant Federal Register notice adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote. The ERC approved the clarifications of the Entity List requirements in this rule, which will apply to all current entities on the Entity List and subsequent additions and modifications to the Entity List.

As referenced above, § 744.11(a) of the EAR sets forth supplemental license requirements applicable to exports, reexports, and transfers (in-country) to entities listed on the Entity List, which 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 United States. In contrast to other provisions of the EAR (i.e., §§ 740.2(a)(17), 744.15(b), and 758.1(b)(8)) that set forth restrictions applicable to exports, reexports, and transfers (in-country) to which a person listed on the Unverified List (See: Supplement No. 6 to part 744 of the EAR) is a party to the transaction, § 744.11(a) imposes supplemental license requirements on exports, reexports, and transfers (in-country) to entities listed on the Entity List. Prior to publication of this final rule, § 744.11 did not explicitly address circumstances in which a listed entity may be playing a role other than consignee or end-user in the transaction, e.g., a purchaser or intermediate consignee. However, since the first set of additions pursuant to § 744.11 on September 22, 2008 (73 FR 54503), Entity List rules published through 2019 typically included a sentence in the Background section of the rules that described the Entity List license requirements and limitations on the use of license exceptions. The purpose of this sentence was to alert exporters, reexporters, and transferors that BIS intended these requirements to apply to those listed entities when acting as any party to the transaction. The sentence specified that,

The license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in-country) to any of the persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. Since 2019, BIS has evaluated how to revise the EAR to better clarify that Entity List license requirements, as specified on the Entity List, are intended to apply to listed entities regardless of their role as a party to a transaction.

Continue Reading: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-17908.pdf>

Exclusive: U.S. to tighten restrictions on Huawei access to technology, chips, sources say

The Trump administration is set to announce on Monday it will further tighten restrictions on Huawei Technologies Co, aimed at cracking down on its access to commercially available chips, officials briefed on the matter said.

Read in

Reuters: <https://apple.news/AU5K15UQAQOipAtNsgvAc1w>

Green recovery or 'nightmare' for trade? Europe wants to tax emissions from ships

Europe's plan to raise billions each year for coronavirus relief by charging ships for their pollution could inflame trade tensions at the worst moment for the global economy and set back efforts to tackle the climate crisis.

Read in CNN

Business: <https://apple.news/AZOg8I8SfQvmc2AHyEaloA>

What a U.S. TikTok ban could mean for users and employees

Here's what a TikTok ban would mean for millions of users and thousands of employees in the U.S.

Read in The Washington

Post: <https://apple.news/AnK62KntjRY2MQDFd9smLeg>

Commerce Department Further Restricts Huawei Access to U.S. Technology and Adds Another 38 Affiliates to the Entity List

FOR IMMEDIATE RELEASE

Monday, August 17, 2020

News Media Contact:

Office of Public Affairs, 202-482-4883

WASHINGTON – The Bureau of Industry and Security (BIS) in the Department of Commerce (Commerce) today further restricted access by Huawei Technologies (Huawei) and its non-U.S. affiliates on the Entity List to items produced domestically and abroad from U.S. technology and software. In addition, BIS added another 38 Huawei affiliates to the Entity List, which imposes a license requirement for all items subject to the Export Administration Regulations (EAR) and modified four existing Huawei Entity List entries. BIS also imposed license requirements on any transaction involving items subject to Commerce export control jurisdiction where a party on the Entity List is involved, such as when Huawei (or other Entity List entities) acts as a purchaser, intermediate, or end user. These actions, effective immediately, prevent Huawei's attempts to circumvent U.S. export controls to obtain electronic components developed or produced using U.S. technology.

In May 2020, BIS amended the longstanding foreign-produced direct product (FDP) rule to target Huawei's acquisition of semiconductors that are the direct product of certain U.S. software and technology. Today's amendment further refines the FDP rule by applying the control to transactions: 1) where U.S. software or technology is the basis for a foreign-produced item that will be incorporated into, or will be used in the "production" or "development" of any "part," "component," or "equipment" produced, purchased, or ordered by any Huawei entity on the Entity List; or 2) when any Huawei entity on the Entity List is a party to such a transaction, such as a "purchaser," "intermediate consignee," "ultimate consignee," or "end-user."

This amendment further restricts Huawei from obtaining foreign made chips developed or produced from U.S. software or technology to the same degree as comparable U.S. chips.

"Huawei and its foreign affiliates have extended their efforts to obtain advanced semiconductors developed or produced from U.S. software and technology in order to fulfill the policy objectives of the Chinese Communist Party," said Commerce Secretary Wilbur Ross.

*(*Continued On The Following Page)*

“As we have restricted its access to U.S. technology, Huawei and its affiliates have worked through third parties to harness U.S. technology in a manner that undermines U.S. national security and foreign policy interests. This multi-pronged action demonstrates our continuing commitment to impede Huawei’s ability to do so.”

The following 38 new Huawei affiliates across 21 countries were added to the Entity List because they present a significant risk of acting on Huawei’s behalf contrary to the national security or foreign policy interests of the United States. There is reasonable cause to believe that Huawei otherwise would seek to use them to evade the restrictions imposed by the Entity List.

- Huawei Cloud Computing Technology; Huawei Cloud Beijing; Huawei Cloud Dalian; Huawei Cloud Guangzhou; Huawei Cloud Guiyang; Huawei Cloud Hong Kong; Huawei Cloud Shanghai; Huawei Cloud Shenzhen; Huawei OpenLab Suzhou; Wulanchabu Huawei Cloud Computing Technology; Huawei Cloud Argentina; Huawei Cloud Brazil; Huawei Cloud Chile; Huawei OpenLab Cairo; Huawei Cloud France; Huawei OpenLab Paris; Huawei Cloud Berlin; Huawei OpenLab Munich; Huawei Technologies Dusseldorf GmbH; Huawei OpenLab Delhi; Toga Networks; Huawei Cloud Mexico; Huawei OpenLab Mexico City; Huawei Technologies Morocco; Huawei Cloud Netherlands; Huawei Cloud Peru; Huawei Cloud Russia; Huawei OpenLab Moscow; Huawei Cloud Singapore; Huawei OpenLab Singapore; Huawei Cloud South Africa; Huawei OpenLab Johannesburg; Huawei Cloud Switzerland; Huawei Cloud Thailand; Huawei OpenLab Bangkok; Huawei OpenLab Istanbul; Huawei OpenLab Dubai; and Huawei Technologies R&D UK

The Temporary General License (TGL) has now expired. This rule further protects U.S. national security and foreign policy interests by making a limited permanent authorization for the Huawei entities on the Entity List. This limited authorization is for the sole purpose of providing ongoing security research critical to maintaining the integrity and reliability of existing and currently “fully operational networks” and equipment.

In a concurrent rule, BIS revised the Entity List to require a license when a party on the Entity List acts as a purchaser, intermediate consignee, ultimate consignee, or end user to an EAR transaction. This aligns with the additional restrictions imposed in the revisions to the FDP, when any of the Huawei entities on the Entity List are a party to the transaction, such as by acting as purchaser, intermediate consignee, ultimate consignee, or end user.

Commerce Applauds NAPA Study Reaffirming the Department as the Lead Agency for Space Traffic Management

FOR IMMEDIATE RELEASE
Thursday, August 20, 2020

News Media Contact:
Office of Public Affairs, 202-482-4883

WASHINGTON – Today, the National Academy of Public Administration (NAPA) released their Congressionally directed study, “Space Traffic Management: Assessment of the Feasibility, Expected Effectiveness, and Funding Implications of a Transfer of Space Traffic Management Functions.” The findings reaffirm that the Office of Space Commerce at the Department of Commerce is the best suited civil agency to perform Space Traffic Management (STM) tasks. The Panel unanimously requests that Congress immediately enact the authorities and appropriations required for OSC to carry out this critical mission.

“I am pleased to see that following an intensive survey of key government and industry stakeholders, NAPA’s findings independently validate that the Department of Commerce is the best civil agency to lead the commercial and international SSA/STM mission,” said Secretary of Commerce Wilbur Ross. “The findings of the Senior Panel highlight the urgent call to action needed to ensure a safe and sustainable space environment to support a thriving U.S. and global space economy. We look forward to working with the Congress to quickly advance this critical space mission.”

“The space operating environment has become more contested and competitive. This is driving the need for the U.S. Space Force to focus our space domain awareness capabilities on the military-unique aspects of our mission,” said Maj. Gen. Stephen Whiting, U.S. Space Force Deputy Commander. “We are excited about the Department of Commerce taking on basic space situational awareness and space traffic management functions because it both frees up the Department of Defense’s resources to focus on national defense, while allowing the Department of Commerce to rapidly innovate and mature the service called for in NAPA’s report. This is truly a partnership which will make America stronger while enabling the promise of space for the American economy and that of all space faring nations.”

*(*Continued On The Following Page)*

Through its evaluation, the NAPA's senior panel found the Office of Space Commerce's concept of operations, which emphasizes flexibility and creativity to allow new innovations and creative commercial companies to thrive, as most capable of serving the strategic interests of the Nation and international space community.

The senior panel highlighted the key features of the Office of Space Commerce's concept of operations as instrumental in their decision:

- OSC views STM as predominantly a data management function, rather than as a prescriptive regulatory role.
- To establish effective STM, OSC will implement a collaborative model that prioritizes its responsibilities as a convener, coordinator, and provider of trusted SSA data to the domestic and international space community. The system will not be defined by a large bureaucratic structure.
- The Department of Commerce, with its proven ability to effectively manage large, diverse, and complex data sets, provides essential technical expertise and other support to the Office of Space Commerce for SSA and STM tasks.

Deputy Assistant to the President and Executive Secretary of the National Space Council Dr. Scott Pace said, "The approach affirmed by the National Academy of Public Administration is exactly what was intended in Space Policy Directive-3: an innovative approach that, consistent with Administration policy, harnesses the private sector to help with an urgent and changing problem while advancing American leadership in the area of space safety and sustainability."

"On behalf of the Office of Space Commerce, I would like to thank NAPA and the Senior Panel for their deep interest in the many complex aspects of dealing with the space debris problem. We are pleased with the affirmation of OSC's role and the collaborative, open architecture approach that we have started to undertake, based on the President's guidance in Space Policy Directive - 3," said Director of the Commerce Department's Office of Space Commerce Kevin O'Connell. "We look forward to working with our interagency, industry, and international partners to find rapid options for improving space safety and sustainability. The emergence of a new space safety industry is key to the growth of space commerce."

The full version of NAPA's report can be found [here](#).

TikTok filing lawsuit against Trump administration to fight impending ban

TikTok's legal challenge, expected to be filed Monday, calls out President Trump's executive order that would effectively ban the app in the United States, saying it is "not rooted in bona fide national security concerns." Trump signed an executive order earlier this month banning undefined transactions for the Chinese-owned firm starting in mid-September. TikTok is currently exploring a sale of its U.S. business.

Boston startup finds US gigs for African software developers

By [Hiawatha Bray](#) Globe Staff, Updated August 25, 2020, 4:15 p.m

When Jessica Ford's Spokane-based marketing company Zipline Interactive needed to update one of its apps, she knew she'd need some outside help. So she turned to [KWG Softworks](#), a Boston-based outsourcing startup, which found exactly the kind of software talent that Zipline needed, 9,000 miles from Spokane. Not in China or India, but in the east African nation of Kenya.

KWG, co-founded by Kenyan immigrant Stephen Wahome, wants to establish Kenya and other African nations as major sources of high-tech talent. Despite the region's reputation for poverty and political instability, African countries such as Kenya, Nigeria, and Ghana have thousands of capable software developers, said Wahome, a Bridgewater State University business graduate with an MBA from the University of Massachusetts Lowell.

"There is a vast amount of undiscovered tech talent in Africa," said Wahome. "Most are very well versed in agile development, the gig economy, and best practices in tech." But, despite a surge in African tech startups, these nations still don't generate enough jobs to employ all their technically skilled citizens. "There's more talent than there are opportunities," Wahome said.

So he and partners Anthony Gentles and brothers Ayoub and Ibraheem Khadar are trying to put some of them to work remotely writing code and building mobile apps for American businesses.

(*Continued On The Following Page)

It worked out fine for Zipline, Ford said. When she reached out to KWG through the freelancing site Upwork, “Steve’s response was very specific, professional. ... It seemed like he knew exactly what we needed.”

Ford didn’t know the work would be done in Africa; it never came up. And now she doesn’t care. “At the end of the project I told Stephen I’m going to actively look for projects where we can work together again,” she said.

Twenty years ago, outsourcing technology work to most African countries was unthinkable. In those days, South Africa was the only nation in the region with an undersea cable connection to the outside world, and even that cable had very little carrying capacity. That began to change in 2001, when the first high-capacity fiber cable was laid along the west coast of the continent, providing reliable phone and data connections to Europe and Asia. Today, several such cables are in place, with still more under construction.

Getting decent Internet to most Africans remains a massive problem. But in major cities, there’s enough bandwidth to support offshoring on a large scale.

That’s led to a boom in call centers for large businesses. Such calls from the United States are often routed to centers in India and the Philippines. But now South Africa has become a major player, with call centers that employ about a quarter-million people.

In recent years, African outsourcing suppliers have been moving up the food chain, by selling the skills of trained African workers to foreign companies. Already, several well-funded firms have entered the market. The best-known of them, Andela, has raised \$181 million in venture funding from investors that include Facebook founder Mark Zuckerberg and former US vice president Al Gore.

“Many of the major markets in Africa (South Africa, Nigeria, and Kenya) have developed significant software development skills in recent years,” Hendrik Malan, a partner at business consulting firm Frost & Sullivan, said in an e-mail. “This is being supplemented with some of the smaller, more innovate markets like Ghana.”

But he added, “the talent pools are however quite small in comparison with the likes of India or China.” That means it will be some time before African tech workers become major competitors in global outsourcing markets.

In addition, market leader Andela has stumbled in recent months. The company laid off 400 workers last September and another 135 in May.

*(*Continued On The Following Column)*

Still, Wahome and his partners think there’s plenty of potential for KWG. Since its founding last year, the company has found work for 20 software developers in Kenya, Ghana, Nigeria, and Cameroon.

Chibuokem Ebuka signed on with KWG in April and has already completed a website development job. Ebuka lives in Enugu, a city of about 700,000 in southeastern Nigeria, and is completing a degree in electronics engineering at the University of Nigeria. To get a job in the country’s technology sector, he’d have to move to a big city such as Abuja or Lagos, which are expensive.

“You could almost think of it as life in Silicon Valley if you think of the cost of living,” he said. Besides, a full-time job would interfere with his schooling. “I like the idea of freelancing at least for now,” Ebuka said. “It allows me to manage my schedule better.”

Wahome hopes to recruit hundreds more like Ebuka and to complete at least 200 software development projects for overseas clients over the next decade.

BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE Bureau of Industry and Security

15 CFR Parts 742 and 774
[Docket No. 200824-0224]

RIN 0694-AH80

Identification and Review of Controls for Certain Foundational Technologies AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Bureau of Industry and Security (BIS) controls the export, reexport, and transfer (in-country) of dual-use and certain military items through the Export Administration Regulations (EAR), including the Commerce Control List (CCL). Many items (commodities, software, and technology) subject to the jurisdiction of the EAR are listed on the CCL. Pursuant to the Export Control Reform Act of 2018, BIS and its interagency partners are engaged in a process to identify emerging and foundational technologies that are essential to the national security of the United States. Foundational technologies essential to the national security are those that may warrant stricter controls if a present or potential application or capability of that technology poses a national security threat to the United States.

*(*Continued On The Following Page)*

In order to determine if technologies are foundational, BIS will evaluate specific items, including items currently subject only to anti-terrorism (AT) controls on the CCL or those designated as EAR99. This ANPRM seeks public comment on the definition of, and criteria for, identifying foundational technologies. Comments on this ANPRM will help inform the interagency process to identify and describe such foundational technologies.

DATES: Submit comments on or before [INSERT 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments through either of the following:

Address: By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230. Refer to RIN 0694-AH80. FOR FURTHER INFORMATION CONTACT: Tongele Tongele, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Department of Commerce by: phone (202) 482-0092; fax (202) 482-3355; or email Tongele.Tongele@bis.doc.gov.

SUPPLEMENTARY INFORMATION: Background Section 1758 (50 U.S.C. 4801) of the Export Control Reform Act of 2018 (ECRA) requires the Department of Commerce to establish appropriate controls on the export, reexport, or transfer (in country) of emerging and foundational technologies. Under ECRA, emerging and foundational technologies are those technologies that are essential to the national security of the United States and are not critical technologies described in Section 721(a)(6)(A)(i)-(v) of the Defense Production Act of 1950, as amended (DPA). ECRA notes the national security importance of U.S. leadership in science, technology, engineering, and manufacturing, including foundational technology that is essential to innovation. Items subject to the Export Administration Regulations (EAR) (15 CFR parts 730 – 774) that are not covered by the DPA’s definition of critical technologies are items controlled only for anti-terrorism (AT), crime control (CC), or short supply (SS) reasons, subject to United Nations (UN) embargoes, or designated as EAR99.

Section 1758 of ECRA requires that foundational technologies be identified, and that BIS establish appropriate controls for that technology under the EAR. At a minimum, such controls would apply to countries subject to an embargo, including an arms embargo, imposed by the United States.

*(*Continued On The Following Column)*

ECRA also requires that the interagency process is to take into account:

- The development of foundational technologies in foreign countries;
- The effect export controls may have on the development of such technologies in the United States; and
- The effectiveness of export controls imposed pursuant to ECRA on limiting the proliferation of foundational technologies to foreign countries.

For purposes of this ANPRM, the term foundational technologies includes not only “technology” but also “commodities” and “software” as used in the EAR.

BIS now seeks public comment to inform the interagency process to identify and describe foundational technologies. For example, foundational technologies could include items that are currently subject to control for military end use or military end user reasons under Supplement No. 2 to part 744 of the EAR. Many of these items, including semiconductor manufacturing equipment and associated software tools, lasers, sensors, and underwater systems, can be tied to indigenous military innovation efforts in China, Russia or Venezuela. Accordingly, they may pose a national security threat.

There may be additional items, classified on the CCL at the AT level or as EAR99 for which an export license is not required for countries subject to a U.S. arms embargo that also warrant review to determine if they are foundational technologies essential to the national security. For example, such controls may be reviewed if the items are being utilized or required for innovation in developing conventional weapons, enabling foreign intelligence collection activities, or weapons of mass destruction applications.

BIS, through an interagency process, seeks to determine whether there are specific foundational technologies that warrant more restrictive controls, including technologies that have been the subject of illicit procurement attempts which may demonstrate some level of dependency on U.S. technologies to further foreign military or intelligence capabilities in countries of concern or development of weapons of mass destruction. BIS welcomes comments on: 1) how to further define foundational technology to assist in identification of such items; 2) sources to identify such items; 3) criteria to determine whether controlled items identified in AT level Export Control Classification Numbers (ECCNs), in whole or in part, or covered by EAR99 categories, for which a license is not required to countries subject to a U.S. arms embargo, are essential to U.S. national security;

*(*Continued On The Following Page)*

Commerce Department Adds 24 Chinese Companies to the Entity List for Helping Build Military Islands in the South China Sea

4) the status of development of foundational technologies in the United States and other countries; 5) the impact specific foundational technology controls may have on the development of such technologies in the U.S.; 6) examples of implementing controls based on end-use and/or end-user rather than, or in addition to, technology based controls; ; 7) any enabling technologies, including tooling, testing, and certification equipment, that should be included within the scope of a foundational technology; and 8) any other approaches to the issue of identifying foundational technologies important to U.S. national security, including the stage of development or maturity level of an foundational technology that would warrant consideration for export control.

BIS does not seek to expand jurisdiction over technologies that are not currently subject to the EAR, such as “fundamental research” described in § 734.8 of the EAR.

BIS will review public comments submitted in response to this ANPRM to help inform BIS and its interagency partners’ efforts to identify, reevaluate and subsequently control foundational technologies. This interagency process is expected to result in rules and comment periods with new control levels for items currently controlled for AT reasons on the CCL or new ECCNs on the CCL for technologies currently classified as EAR99. OMB has determined that this action is significant under Executive Order 12866.

Submission of Comments

Comments should be submitted to BIS as described in the ADDRESSES section of this ANPRM by [INSERT 60 DAYS FROM DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER].

Matthew S. Borman
Deputy Assistant Secretary for Export Administration
[FR Doc. 2020-18910 Filed: 8/26/2020 8:45 am; Publication Date: 8/27/2020]

WASHINGTON – The Bureau of Industry and Security (BIS) in the Department of Commerce (Commerce) added 24 Chinese companies to the Entity List for their role in helping the Chinese military construct and militarize the internationally condemned artificial islands in the South China Sea. Despite protests from the United States and other countries, the government of the People’s Republic of China (PRC) has been rapidly building the artificial islands since 2013, enabling the Communist Chinese Party’s (CCP) militarization of disputed outposts in the South China Sea to undermine the sovereign rights of U.S. partners in the region.

“The United States, China’s neighbors, and the international community have rebuked the CCP’s sovereignty claims to the South China Sea and have condemned the building of artificial islands for the Chinese military,” said Commerce Secretary Wilbur Ross. “The entities designated today have played a significant role in China’s provocative construction of these artificial islands and must be held accountable.”

Since 2013, the CCP has dredged and constructed more than 3,000 acres across seven features in the South China Sea, which include air defense and anti-ship missile features. In addition, the PRC’s dredging and construction of certain outposts violates the sovereign rights of the Republic of the Philippines, as determined by the Permanent Court of Arbitration in its July 2016 award in a case brought by the Philippines against the PRC. In the Entity List additions, Commerce determined these entities enabled China to construct and militarize disputed outposts in the South China Sea.

The Entity List is a tool utilized by BIS to restrict the export, re-export, and transfer (in-country) of items subject to the Export Administration Regulations (EAR) to persons (individuals, organizations, companies) reasonably believed to be involved, or to pose a significant risk of becoming involved, in activities contrary to the national security or foreign policy interests of the United States. Additional license requirements apply to exports, re-exports, and transfers (in-country) of items subject to the EAR to listed entities, and the availability of most license exceptions is limited.

These companies were placed on the Entity List for enabling the People’s Republic of China to reclaim and militarize disputed outposts in the South China Sea:

*(*Continued On The Following Page)*

- China Communications Construction Company Dredging Group Co., Ltd.
- China Communications Construction Company Tianjin Waterway Bureau
- China Communications Construction Company Shanghai Waterway Bureau
- China Communications Construction Company Guangzhou Waterway Bureau
- China Communications Construction Company Second Navigation Engineering Bureau
- Beijing Huanjia Telecommunication Co., Ltd.
- Changzhou Guoguang Data Communications Co., Ltd.
- China Electronics Technology Group Corporation, 7th Research Institute (CETC-7)
- Guangzhou Hongyu Technology Co., Ltd., (a subordinate institute of CETC-7)
- Guangzhou Tongguang Communication Technology Co., Ltd. (a subordinate institute of CETC-7)
- China Electronics Technology Group Corporation, 30th Research Institute (CETC-30)
- China Shipbuilding Group, 722nd Research Institute
- Chongxin Bada Technology Development Co., Ltd.
- Guangzhou Guangyou Communications Equipment Co., Ltd.
- Guangzhou Haige Communication Group Co., Ltd.
- Guilin Changhai Development Co., Ltd.
- Hubei Guangxing Communications Technology Co., Ltd.
- Shaanxi Changling Electronic Technology Co., Ltd.
- Shanghai Cable Offshore Engineering Co., Ltd.
- Telixin Electronics Technology Co., Ltd.
- Tianjin Broadcasting Equipment Co., Ltd.
- Tianjin 764 Avionics Technology Co., Ltd.
- Tianjin 764 Communication and Navigation Technology Co., Ltd.
- Wuhan Mailite Communication Co., Ltd.

For more information, visit www.bis.doc.gov.

WORKFORCE TRAINING FUND

Dear Grantees and Training Providers,

At Commonwealth Corporation, we understand the need for flexible solutions to address emerging needs, including workforce training. We are writing to inform you of an important change regarding the Workforce Training Fund Program (WTFP).

Effective September 1, 2020, eligible Massachusetts businesses of **any size** may apply for training grants through the Workforce Training Fund's Express Program. The Express Program offers cash grants to businesses to cover up to 50% of the cost of training employees, up to \$3,000 per employee per course. Additional limitations apply. (The Express Program was previously only available to small businesses w/ 100 or fewer employees.)

Examples of training available through the Express Program include: Leadership/Supervisory Skills, Productivity Software, Project Management, IT, Sales and Customer Service, Quality Assurance, and more... For more information and to apply, go to WorkforceTrainingFund.org

[Commonwealth Corporation](#) administers the Workforce Training Fund Program on behalf of [the Executive Office of Labor and Workforce Development](#).

Follow us on social media for the latest funding opportunities and workforce development and training news!



Commonwealth Corporation | 2 Oliver St, 5th Floor,
Boston, MA 02109

[Unsubscribe info@eib.com](mailto:info@eib.com)

[About our service provider](#)

Sent by wtfp@commcorp.org powered by



Order Regarding the Acquisition of Musical.ly by ByteDance Ltd

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 721 of the Defense Production Act of 1950, as amended (section 721), 50 U.S.C. 4565, it is hereby ordered as follows:

Section 1. Findings. (a) There is credible evidence that leads me to believe that ByteDance Ltd., an exempted company with limited liability incorporated under the laws of the Cayman Islands (“ByteDance”), through acquiring all interests in musical.ly, an exempted company with limited liability incorporated under the laws of the Cayman Islands (“Musical.ly”), might take action that threatens to impair the national security of the United States. As a result of the acquisition, ByteDance merged its TikTok application with Musical.ly’s social media application and created a single integrated social media application; and

(b) Provisions of law, other than section 721 and the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), do not, in my judgment, provide adequate and appropriate authority for me to protect the national security in this matter.

Sec. 2. Actions Ordered and Authorized. On the basis of the findings set forth in section 1 of this order, considering the factors described in subsection (f) of section 721, as appropriate, and pursuant to my authority under applicable law, including section 721, I hereby order that:

(a) The transaction resulting in the acquisition by ByteDance of Musical.ly, to the extent that Musical.ly or any of its assets is used in furtherance or support of, or relating to, Musical.ly’s activities in interstate commerce in the United States (“Musical.ly in the United States”), is hereby prohibited, and ownership by ByteDance of any interest in Musical.ly in the United States, whether effected directly or indirectly through ByteDance, or through ByteDance’s subsidiaries, affiliates, or Chinese shareholders, is also prohibited.

(b) In order to effectuate this order, not later than 90 days after the date of this order, unless such date is extended for a period not to exceed 30 days, on such written conditions as the Committee on Foreign Investment in the United States (CFIUS) may impose, ByteDance, its subsidiaries, affiliates, and Chinese shareholders, shall divest all interests and rights in:

(i) any tangible or intangible assets or property, wherever located, used to enable or support ByteDance’s operation of the TikTok application in the United States, as determined by the Committee; and

*(*Continued On The Following Column)*

(ii) any data obtained or derived from TikTok application or Musical.ly application users in the United States. Immediately upon divestment, ByteDance shall certify in writing to CFIUS that all steps necessary to fully and permanently effectuate the actions required under sections 2(a) and 2(b) have been completed.

(c) Immediately upon divestment, ByteDance shall certify in writing to CFIUS that it has destroyed all data that it is required to divest pursuant to section 2(b)(ii), as well as all copies of such data wherever located, and CFIUS is authorized to require auditing of ByteDance on terms it deems appropriate in order to ensure that such destruction of data is complete.

(d) ByteDance shall not complete a sale or transfer under section 2(b) to any third party:

(i) until ByteDance notifies CFIUS in writing of the intended recipient or buyer; and

(ii) unless 10 business days have passed from the notification in section 2(d)(i) and CFIUS has not issued an objection to ByteDance. Among the factors CFIUS may consider in reviewing the proposed sale or transfer are whether the buyer or transferee: is a U.S. citizen or is owned by U.S. citizens; has or has had a direct or indirect contractual, financial, familial, employment, or other close and continuous relationship with ByteDance, or its officers, employees, or shareholders; and can demonstrate a willingness and ability to support compliance with this order. In addition, CFIUS may consider whether the proposed sale or transfer would threaten to impair the national security of the United States or undermine the purpose of this order, and whether the sale effectuates, to CFIUS’s satisfaction and in its discretion, a complete divestment of all tangible or intangible assets or property, wherever located, used to enable or support the operation of the TikTok application in the United States.

(e) From the date of this order until ByteDance provides a certification of divestment to CFIUS pursuant to section 2(b), ByteDance and TikTok Inc., a Delaware corporation, shall certify to CFIUS on a weekly basis that they are in compliance with this order and include a description of efforts to divest the interests and rights described in section 2(b) and a timeline for projected completion of remaining actions.

(g) Without limitation on the exercise of authority by any agency under other provisions of law, and until such time as the divestment is completed and verified to the satisfaction of CFIUS, CFIUS is authorized to implement measures it deems necessary and appropriate to verify compliance with this order and to ensure that the operations of the TikTok application are carried out in such a manner as to ensure protection of the national security interests of the United States.

*(*Continued On The Following Page)*

Such measures may include the following: on reasonable notice to ByteDance and TikTok Inc., employees of the United States Government, as designated by CFIUS, shall be permitted access, for purposes of verifying compliance with this order, to all premises and facilities of ByteDance and TikTok Inc., and any of their respective subsidiaries, operated in furtherance of the TikTok application located in the United States:

- (i) to inspect and copy any books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of ByteDance or TikTok Inc., or any of their respective subsidiaries, that concern any matter relating to this order;
- (ii) to inspect or audit any information systems, networks, hardware, software, data, communications, or property in the possession or under the control of ByteDance or TikTok Inc., or any of their respective subsidiaries; and
- (iii) to interview officers, employees, or agents of ByteDance or TikTok Inc., or any of their respective subsidiaries, concerning any matter relating to this order. CFIUS shall conclude its verification procedures within 90 days after the certification of divestment is provided to CFIUS pursuant to subsection (b) of this section.

(*Continued On The Following Column)

Web Notice: The Directorate of Defense Trade Controls (DDTC) is currently in the process of modernizing its IT systems. During this time period, we anticipate there may be delays in response times and time to resolve IT related incidents and requests. We apologize for any inconvenience, and appreciate your patience while we work to improve DDTC services. If you need assistance, please contact the DDTC Service Desk at (202) 663-2838, or email at DtradeHelpDesk@state.gov (06.28.16)

(h) If any provision of this order, or the application of any provision to any person or circumstances, is held to be invalid, the remainder of this order and the application of its other provisions to any other persons or circumstances shall not be affected thereby. If any provision of this order, or the application of any provision to any person or circumstances, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements.

(i) The Attorney General is authorized to take any steps necessary to enforce this order.

Sec. 3. Reservation. I hereby reserve my authority to issue further orders with respect to ByteDance, Musical.ly, Musical.ly in the United States, and TikTok Inc. as shall in my judgment be necessary to protect the national security.

Sec. 4. Publication and Transmittal. (a) This order shall be published in the Federal Register.

(b) I hereby direct the Secretary of the Treasury to transmit a copy of this order to the appropriate parties named in section 1 of this order.

NOTE: In accordance with Title 17 U.S.C. Section 107, this material is distributed without profit or payment for non-profit news reporting and educational purposes only.

Reproduction for private use or gain is subject to original copyright restrictions.

“Don’t stop until you’re proud.”