

Monday, 14 February 2022



ITEMS FROM TODAY'S FEDERAL REGISTER

1. Commerce/BIS Amends the EAR by Adding Certain Entities to the Entity List
-

OTHER GOVERNMENT SOURCES

2. Items Scheduled for Future Federal Register Edition
 3. Commerce/BIS: (No new postings)
 4. State/DDTC: : "Guidelines for Preparing Agreements Revision 5.0 Released - - DDTC Public Announcements"
-

NEWS

5. Hellenic Shipping News: "Tighter US Export Controls on Chinese Firms Opposed"
 6. Merco Press: "Argentina to Send Military Team to China to Discuss Arms Deal"
-

COMMENTARY

7. Baker McKenzie: "US Government Issues Business Advisory on Heightened Risks Associated with doing Business in Myanmar"
 8. Steptoe: "New Regulations Expand UK's Russia Sanctions Powers"
-

EX/IM MOVERS & SHAKERS

9. Monday List of Ex/Im Job Openings: 94 Jobs Available - 5 New Job Openings This Week
-

EX/IM TRAINING EVENTS & CONFERENCES

10. ECS Presents: 16 Mar; "Role of the Empowered Official" Webinar
 11. FCC Academy Presents 2022 Webinars Schedule
-

EDITOR'S NOTES

12. Bartlett's Unfamiliar Quotations
 13. Are Your Copies of Regulations Up to Date? Find the Latest Amendments Here
 14. Submit Your Job Opening and View All Job Openings
 15. Submit Your Event and View All Approaching Events
-

EU & Dutch Military and Dual-Use Export Controls

Tuesday, 10 May 2022
Online Course

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Are You keeping Up to Date with the Latest Regulations?



Bartlett's Annotated ITAR (BITAR) and *Bartlett's Annotated FTR (BAFTR)* are Word documents to download to your laptop to keep you updated on the latest amendments to the International Traffic in Arms Regulations (22 CFR 120-130) and the Foreign Trade Regulations (15 CFR Part 30). They contain nearly a thousand footnotes of section histories, key cases, practice tips, Consent Agreements, glossaries, and extensive Tables of Contents. Subscribers receive updated editions every time the regulations are amended (usually within 24 hours), so you will always have

your own Word version of the current regulations. [Subscribe to the BITAR and BAFTR here](#) to guarantee you have up-to-date annotated versions of these essential regulations.

ITEMS FROM TODAY'S FEDERAL REGISTER

1. Commerce/BIS Amends the EAR by Adding Certain Entities to the Entity List

(Source: [Today's Federal Register](#), 87 FR 8180, 14 Feb 2022) [Excerpts]

- * AGENCY: Bureau of Industry and Security, Commerce.
- * ACTION: Final rule.
- * SUMMARY: This final rule amends the Export Administration Regulations (EAR) by adding seven entities under seven entries to the Entity List. These seven entities have been determined by the U.S. Government to be acting contrary to the foreign policy or national security interests of the United States and will be listed on the Entity List under the destinations of the People's Republic of China (China), Pakistan, and the United Arab Emirates (UAE). This final rule also modifies four existing entries on the Entity List under the destination of China.
- * DATES: This rule is effective February 14, 2022.

OTHER GOVERNMENT SOURCES

2. Items in Future Federal Register Edition (No New postings)

3. Commerce/BIS: (No new postings)

(Source: [Commerce/BIS](#))

4. State/DDTC Releases "Guidelines for Preparing Agreements (Rev. 5.0)"

(Source: [State/DDTC](#), 14 Feb 2022)

The "Guidelines for Preparing Agreements," Revision 5.0, is now posted. You can access the document [here](#). The guidance is in effect today, Monday, February 14, 2022.

The Revision 5.0 includes revisions and restructures the Agreement Guidelines in a more logical and orderly fashion. The majority of the text remains unchanged but has been relocated and combined with like topics. Additionally, duplicative guidance has been removed or consolidated. The end result is a 55% reduction in the length of the Guidelines. Some guidance has been updated to assist the process of agreement adjudication, to better reflect DTCL adjudication practices, and to incorporate industry best practices. A summary of noteworthy revisions can be found on page 1 of the updated Guidelines.

NEWS

5. Hellenic Shipping News: "Tighter US Export Controls on Chinese Firms Opposed"

(Source: [Hellenic Shipping News](#), 10 Feb 2022) [Excerpts]

The United States government's move to add 33 Chinese entities to its so-called Unverified List disregards multilateralism and international commerce rules, and the tighter export controls will further stress the already fragile global industrial and supply chains, experts said on Tuesday.

They also said the increased restrictions on overseas shipments by US exporters will not only hurt the legitimate rights of foreign organizations, but will eventually harm US enterprises while impeding international cooperation in technology and trade.

Their comments came after the US Commerce Department said on Monday that it had added the 33 Chinese entities to the list, which requires extra procedures from US exporters who want to do business with them. The new entries are primarily high-tech enterprises, such as two subsidiaries of biotech WuXi Biologics and some electronics companies. ...

6. Merco Press: "Argentina to Send Military Team to China to Discuss Arms Deal"

(Source: [Merco Press](#), 14 Feb 2022) [Excerpts]

The Government of Argentina is planning to send a military team to China in March to broker the purchase of combat aircraft, for which over US \$ 600 million have been allocated as per the 2022 Budget bill, it was reported.

Argentina is said to be considering five offers, with China's JF-17 Thunder-Block III topping the list following President Alberto Fernández's recent meeting in Beijing with Xi Jinping, *Infobae* said. The South American country was planning to purchase some 12 units of that model, the newspaper also said.

Buenos Aires' ambassador to Beijing, Sabino Vaca Narvaja, has already held meetings with the Chin National Aero-Technology Import and Export Corporation (CATIC), to move on with the negotiations, the report added.

The 2022 Budget also features some US \$ 20 million for the purchase of additional equipment, such as flight simulators, *Infobae* said.

Argentina is also planning to buy 8x8 vehicles for the Army, a polar ship for the Antarctic campaigns and rescue helicopters. However, none of the estimates specified details of origin, brand and model of the equipment, while it was just the opposite regarding the Chinese aircraft.

According to *Infobae*, China is interested in supplying Argentina with the modern JF-17, which could open the door to future arms deals with other countries in the region.

Negotiations in this regard date back to 2015, but were put on hold under President Mauricio Macri (2015-2019), who instead chose to buy obsolete units from France. ...

China offered Argentina tanks and planes that its Armed Forces no longer use. Argentina's Defense Ministry said the purchase of South Korean-built fighter aircraft was also under consideration. (Source: *Infobae*)

COMMENTARY

7. Baker McKenzie: "US Government Issues Business Advisory on Heightened Risks Associated with doing Business in Myanmar"

(Source: [Global Compliance News](#), 11 Feb 2022) [Excerpts]

* Principal Author: [Kerry Contini, Esq.](#), 1-202-835-6100, [Baker McKenzie](#)

On January 26, 2022, the US Departments of State, Treasury, Commerce, Labor, Homeland Security and the Office of the US Trade Representative ("USTR") issued a [joint advisory](#) (the "Advisory") cautioning businesses, financial institutions, investors, consultants, research service providers, etc. of the heightened risks associated with doing business in Burma/Myanmar, especially wherever the Myanmar military is involved. This is a continuation of US Government's actions to address the situation in Myanmar.

The Advisory identified several entities and sectors in Myanmar's economy as carrying the greatest risks: (1) state-owned enterprises, (2) gems and precious metals, (3) real-estate and construction projects, and (4) arms, military equipment, and related activity. The Advisory indicates that these sectors are higher risk because they provide significant economic resources to Myanmar's military regime; many businesses and individuals associated with these entities and sectors are subject to various restrictions imposed by several countries and international organizations; and businesses and individuals could be exposed to significant legal, financial, and reputational risks when dealing with these entities and sectors. ...

The Advisory has three annexes that provide useful resources for businesses seeking to develop or enhance compliance programs that address export controls, sanctions, and other risks involving Myanmar. The first two annexes summarize the actions taken and reports issued by the US Government, including the US Departments of Commerce, Homeland Security, Labor, State, and Treasury, and the Office of USTR, in response to the situation in Myanmar. The third annex sets out high-level due diligence best practices for businesses and financial institutions to mitigate risks relating to human rights abuses, US sanctions and export controls, money laundering, human trafficking, and other issues when dealing with Myanmar.

8. Steptoe: "New Regulations Expand UK's Russia Sanctions Powers"

* Author: [Alexandra Melia](#), 44-20-7367-8092, [Steptoe & Johnson LLP](#)

On February 10, 2022, the UK government laid before parliament [The Russia \(Sanctions\) \(EU Exit\) \(Amendment\) Regulations 2022](#) (SI 2022/123) (Amended Regulations). The Amended Regulations, which came into force on the same day, expand the scope of the UK's Russia sanctions regime by significantly broadening the range of individuals, businesses and other entities that the UK can sanction in the event of further Russian aggression against Ukraine. The Amended Regulations include an innovative designation criterion designed to target individuals and entities of significance to the Kremlin. Companies that are subject to UK sanctions jurisdiction and have exposure to Russia should familiarize themselves with the expanded scope of the UK's Russia sanctions regime as part of their efforts to assess and mitigate the risks associated with possible sanctions against Russia. For more information on potential Russia-related UK, EU, and US sanctions, see our earlier blog posts [here](#) and [here](#). Visit this [link](#) to sign up to receive a recording of Steptoe's recent webinar "Possible Sanctions Against Russia: What You Need to Know."

Broad Authority for UK Sanctions Designations

The Amended Regulations authorize the UK government to designate any individual or entity that is or has been involved in:

- destabilizing Ukraine or undermining or threatening the territorial integrity, sovereignty or independence of Ukraine; or
- obtaining a benefit from or supporting the Government of Russia.

While the criterion concerning involvement in the destabilization of Ukraine is a retained provision that originally was included in [The Russia \(Sanctions\) \(EU Exit\) Regulations 2019](#) (Russia Regulations), the Amended Regulations have introduced a completely new designation criterion of obtaining a benefit from or supporting the Government of Russia.

An individual or entity will fall within the new designation criterion if they are or have been involved in:

(1) Carrying on business as a Government of Russia-affiliated entity.

An entity is a "Government of Russia-affiliated entity" if –

- it is owned or controlled directly or indirectly by the Government of Russia;
- the Government of Russia holds directly or indirectly a minority interest in it;
- it receives, or has received, financing, directly or indirectly, from the Russian Direct Investment Fund or the National Wealth Fund; or
- it otherwise obtains a financial benefit or other material benefit from the Government of Russia.

(2) Carrying on business of economic significance to the Government of Russia.

The "Government of Russia" is defined as –

- the Presidency of the Russian Federation;
- public bodies and agencies subordinate to the President of the Russian Federation (including the Administration of the President of the Russian Federation);
- the Chairman of the Government of the Russian Federation and the deputies of the Chairman of the Government;
- any Ministry of the Russian Federation;
- any other public body or agency of the Government of the Russian Federation (including the armed forces and law-enforcement organs of the Russian Federation); or
- the Central Bank of the Russian Federation.

(3) Carrying on business in any of the Russian chemicals, construction, defence, electronics, energy, extractives, financial services, information, communications and digital technologies, or transport sectors.

(4) Owning or controlling directly or indirectly, or working as a director (whether executive or non-executive), trustee, or equivalent, of a Government of Russia-

affiliated entity or an entity falling within the scope of point 2 or 3.

The new designation criterion also encompasses any:

- entity that is owned or controlled directly or indirectly by a person obtaining a benefit from or supporting the Government of Russia;
- individual or entity who or that is acting on behalf, or at the direction, of a person obtaining a benefit from or supporting the Government of Russia; and
- individual or entity who or that is a member of, or associated with, a person obtaining a benefit from or supporting the Government of Russia (including obtaining a financial benefit or other material benefit from that person.).

Familiar Menu of Sanctions

The Russia Regulations, as amended, contemplate a range of potential financial sanctions that can be imposed on individuals, businesses or other entities that meet the new designation criterion. The sanctions “menu” in the Russia Regulations is a familiar one. In addition to imposing an asset freeze on funds or economic resources owned, held or controlled by a designated person, persons subject to UK sanctions jurisdiction are prohibited from making funds or economic resources available to, or for the benefit of, a designated person. The prohibition on dealing with the funds or economic resources of the designated person also extends to any legal entities that person owns or controls, directly or indirectly, even if the particular entity is not itself listed by the UK as a designated person. Intentionally participating in activities knowing that their object or effect, whether directly or indirectly, is to circumvent or enable/facilitate the contravention of the foregoing financial sanctions is also prohibited. Designated persons who are individuals also face a UK travel ban.

Possible Future Developments

While it remains to be seen how aggressively the UK government will deploy its newly expanded powers of designation if a trigger event occurs, the Amended Regulations dramatically widen the pool of Russian targets on whom UK sanctions could be imposed in the event of further Russian aggression against Ukraine. The amendments also underscore the UK government’s willingness to use its post-Brexit powers under the Sanctions and Anti-Money Laundering Act 2018 to craft its own distinct sanctions framework.

Given the novelty and potential breadth of application of the new designation criteria introduced by the Amended Regulations, companies with exposure to Russia and, in particular, the nine specified sectors are well advised to consider the potential impact of these developments on their operations.

EX/IM MOVERS & SHAKERS

9. Monday List of Ex/Im Job Openings: 94 Jobs Available - 5 New Job Openings This Week

(Source: Editor)

New Jobs

- Advanced Sterilization Products: Irvine, CA, USA; [Global Trade Analyst](#); Requisition ID: ADV002126; Contact Details: Stephanie Martino, smartino@personifysearch.com
- Avant International LLC: Denver, CO, USA; Export Compliance Consultant; Contact Details: jobs@avantinternational.com
- Deloitte: Sydney, NSW, AU; [Global Trade Senior Manager](#)
- TE Connectivity: USA remote; [Global Trade Services Automation - Senior Manager](#); Requisition ID: 84106; Contact Details Verges ken.verges@te.com
- Thales Defense & Security Inc: Clarksburg, MD, USA; [International Trade Compliance Manager](#); Requisition ID: 3098

Click [here](#) for the full list.

10. ECS Presents: 16 Mar; "Role of the Empowered Official" Webinar

(Source: [ECS](#))

- * What: Role of the Empowered Official Webinar
- * When: 16 March 2022
- * Where: Scottsdale, AZ, USA
- * Sponsor: Export Compliance Solutions & Consulting
- * Presenters: Suzanne Palmer, Lisa Bencivenga
- * Register: [HERE](#) or call (866) 238-4018 or email liz@exportcompliancesolutions.com

11. FCC Academy Presents 2022 Webinars Schedule



Designing an ICP for Export Controls & Sanctions

Tue, 1 Mar; 15:00 - 17:00 pm (CET) / 09:00 - 11:00 am (EDT)
Register or find info [HERE](#)



Implementing an ICP for Export Controls & Sanctions

Thu, 3 Mar; 15:00 - 17:00 pm (CET) / 09:00 - 11:00 am (EDT)
Register or find info [HERE](#)



U.S. Export Controls: EAR & ITAR from a non-U.S. Perspective

Tue, 5 Apr; 15:00 - 17:15 pm (CET) / 09:00 - 11:15 am (EDT)
Register or find info [HERE](#)



The ABCs of Foreign Military Sales (FMS)

Thu, 7 Apr; 15:00 - 17:00 pm (CET) / 09:00 - 11:00 am (EDT)
Register or find info [HERE](#)



Intro to EU / Dutch Dual-Use and Military Export Controls
Tue, 10 May; 15:00 - 17:10 pm (CET) / 09:00 - 11:00 am (EDT)
Register or find info [HERE](#)

* If you are a past attendee, take advantage of the discounted price! Contact us at events@fullcirclecompliance.eu for more info.

EDITOR'S NOTES

12. Bartlett's Unfamiliar Quotations

(Source: Editor)

* **Frederick Douglass** (born Frederick Augustus Washington Bailey; 14 Feb 1818 – 20 Feb 1895; was an American social reformer, abolitionist, orator, writer, and statesman. After escaping from slavery in Maryland, he became a national leader of the abolitionist movement in Massachusetts and New York, gaining note for his brilliant oratory and incisive antislavery writings.)

- *"It is easier to build strong children than to repair broken men."*

* **Jack Benny** (born Benjamin Kubelsky; 14 Feb 1894 – 26 Dec 1974; was an American vaudevillian, comedian, radio, television and film actor, and violinist. Recognized as a leading 20th-century American entertainer, Benny often portrayed his character as a miser, who obviously played his violin badly, and ridiculously claimed to be 39 years of age, regardless of his actual age. His radio and television programs, popular from 1932 until his death in 1974, were a major influence on the sitcom genre.)

- *"Hors D'oeuvre: A ham sandwich cut into forty pieces."*

- *"Modesty is my best quality."*

Monday is Funday:

* Guy: Do you have a date for Valentine's Day? Girl: Yes, it is February 14th.

* Guy: "Honey, on this Valentine's Day, I want to tell you something... I'm not a buff athlete like Jack. I don't have a law degree and mansion like Russell. I don't have a Porsche like Martin, or a sailboat like Ryan. But what I do have a deep love for you and I want to marry you." Girl: "Oh, dear, I love you too! But what was that you said about Russell?"

* Why should you not date tennis players? Because love means nothing to them.

* Why shouldn't you fall in love with a pastry chef? He'll dessert you.

* What's the difference between love and marriage? Love is blind. Marriage is an eye-opener.

* What did the boy boat say to the girl boat? Are you up for a little row-mance?

* Did you hear about the bed bugs who fell in love on Valentine's Day? They're getting married in the spring!

13. Are Your Copies of Regulations Up To Date?

(Source: Editor)

The official versions of the following regulations are published annually in the U.S. Code of Federal Regulations (C.F.R.), but are updated as amended in the Federal Register. The latest amendments are listed below.



DHS CUSTOMS REGULATIONS:

19 CFR, Ch. 1, Pts. 0-199.

22 Jul 2021: [19 CFR § 145.74](#): Mandatory advance electronic data (AED) for Mail Shipments.



DOC EXPORT ADMINISTRATION REGULATIONS

15 CFR Subtit. B, Ch. VII, Pts. 730-744.

14 Feb 2022: [87 FR 8180](#): EAR Amendment by Adding Certain Entities to the Entity List.



DOC FOREIGN TRADE REGULATIONS:

15 CFR Part 30.

24 Apr 2018: [83 FR 17749](#): Foreign Trade Regulations (FTR): Kimberley Process Certificates. The latest edition of *Bartlett's Annotated FTR* ("[BAFTR](#)") is 3 Jan 2022.



DOD NATIONAL INDUSTRIAL SECURITY PROGRAM OPERATING MANUAL (NISPOM):

DoD 5220.22-M, 32 CFR Part 117

24 Feb 2021: 86 FR 46597; The NISPOM was codified into [32 CFR Part 117](#).



DOE EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL:

10 CFR Part 110

15 Nov 2017: [82 FR 52823](#): miscellaneous corrections include correcting references, an address and a misspelling.



DOJ ATF ARMS IMPORT REGULATIONS:

27 CFR Part 447-Importation of Arms, Ammunition, and Implements of War

26 Dec 2019: [27 CFR 478](#), [555](#), [771](#): (83 sections changed).



DOS INTERNATIONAL TRAFFIC IN ARMS REGULATIONS

(ITAR): 22 C.F.R. Ch. I, Subch. M, Pts. 120-130.

9 Dec 2021: [86 FR 70053](#): Addition of Cambodia to List of Proscribed Countries under the ITAR. The latest edition of *Bartlett's Annotated ITAR* ("[BITAR](#)") is 9 Dec 2021.



DOT FOREIGN ASSETS CONTROL REGULATIONS

(OFAC FACR): 31 CFR, Parts 500-599, Embargoes, Sanctions, Executive Orders

11 Feb 2022: [87 FR 7943](#): Removal of the Burundi Sanctions Regulations, as a result of the termination of the national emergency on which they were based.



24 Jan 2022: Harmonized System Update (HSU) 2201 was created.



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