

DEPARTMENT OF COMMERCE**Bureau of Industry and Security****15 CFR Part 744**

[Docket No. 210111–0006]

RIN 0694–A140

Addition of Entity to the Entity List, and Addition of Entity to the Military End-User (MEU) List and Removals From the MEU List**AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by adding one entity to the Entity List. This one entity has been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. This entity will be listed on the Entity List under the destination of the People's Republic of China (China). In addition, this final rule amends the EAR by adding one entity to the Military End-User (MEU) List. Lastly, this final rule removes two entities from the MEU List to remove a duplicate listing.

DATES: This rule is effective January 14, 2021.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: 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. The EAR (15 CFR parts 730–774) impose additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. 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 Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The ‘Military End-User’ (MEU) List (supplement no. 7 to part 744 of the EAR) identifies entities that have been determined by the ERC to be ‘military end users’ pursuant to § 744.21 of the EAR. That section imposes additional license requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities on the MEU List, as specified in supplement no. 7 to part 744 and § 744.21. Entities are listed on the MEU List under the destinations of China, Russia, or Venezuela. The license review policy for each listed entity is identified in the introductory text of supplement no. 7 to part 744 and in § 744.21(b) and (e). The MEU List includes introductory text, which specifies the scope of the license requirements, limitations on the use of EAR license exceptions, and the license review policy that applies to the entities. These requirements are also reflected in § 744.21, but for ease of reference, these also included in the introductory text of the supplement.

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 and the MEU List. The ERC makes all decisions to add an entry to the Entity List and MEU List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions*Additions to the Entity List*

Under § 744.11(b) (Criteria for revising the Entity List) of the EAR, 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 that are contrary to the national security or foreign policy interests of the United States, and those acting on behalf of such entities, may be added to the Entity List. Paragraphs (b)(1) through (5) of § 744.11 provide an illustrative list of activities that could be considered contrary to the national security or foreign policy interests of the United States.

This rule implements the decision of the ERC to add one entity to the Entity

List. This one entity will be listed on the Entity List under the destination of China. The ERC made the decision to add this one entity described below under the standard set forth in § 744.11(b) of the EAR.

The ERC determined that the one subject entity is engaging in or enabling activities contrary to U.S. national security and foreign policy interests, as follows:

The ERC determined that China National Offshore Oil Corporation Ltd. has been involved in the PRC's efforts to assert its unlawful maritime claims in the South China Sea, as well as efforts to intimidate and coerce other South China Sea coastal states from accessing and developing offshore marine resources.

Pursuant to § 744.11(b), the ERC determined that the conduct of the above-described one entity raises sufficient concerns that prior review, via the imposition of a license requirement, of exports, reexports, or transfers (in-country) of all items subject to the EAR involving this one entity, except for the exclusions from the license requirement specified in the next paragraph, and the possible issuance of license denials or the possible imposition of license conditions on shipments to this entity, will enhance BIS's ability to prevent violations of the EAR or otherwise protect U.S. national security or foreign policy interests.

For China National Offshore Oil Corporation Ltd., BIS imposes a license requirement that applies to all items subject to the EAR except for crude oil, condensates, aromatics, natural gas liquids, hydrocarbon gas liquids, natural gas plant liquids, refined petroleum products, liquefied natural gas, natural gas, synthetic natural gas, and compressed natural gas that are identified under one of thirty-seven Harmonized System (HS) codes included in the license requirement column for this entry, or for items required for the continued operation of joint ventures with persons from countries in Country Group A:1 in supplement no. 1 to part 740 of the EAR not operating in the South China Sea.

For this one entity added to the Entity List by this rule, BIS imposes a license review policy of a presumption of denial. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the person being added to the Entity List in this rule.

For the reasons described above, this final rule adds the following one entity to the Entity List:

China

- China National Offshore Oil Corporation Ltd.

ERC MEU List Decisions*Additions to the MEU List*

Under § 744.21(b) of the EAR, BIS may inform persons either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notice published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in China, Russia, or Venezuela. Under § 744.21(b)(1) of the EAR, BIS may designate entities subject to this additional prohibition under paragraph (b) that have been determined by the ERC to be a 'military end user' pursuant to § 744.21. These entities will be added to supplement no. 7 to part 744 ('Military End-User' (MEU) List) in **Federal Register** notices published by BIS.

This rule implements the decision of the ERC to add one entity to the MEU List. This entity will be listed on the MEU List under the destination of China. The ERC made the decision to add this entity described below under the standard set forth in § 744.21 of the EAR, including the criteria for what constitutes a 'military end user' under paragraph (g) and 'military end use' under paragraph (f).

The license requirement for this entity that will be listed on the MEU List applies to the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 2 to part 744. For this one entity added to the MEU List by this rule, BIS imposes a license review policy of a presumption of denial as set forth in § 744.21(e).

No license exceptions are available for exports, reexports, or transfers (in-country) to listed entities on the MEU List for items specified in supplement no. 2 to part 744, except license exceptions for items authorized under the provisions of License Exception GOV set forth in § 740.11(b)(2)(i) and (ii) of the EAR.

The acronym "a.k.a." (also known as) is used in entries on the MEU List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the MEU List.

For the reasons described above, this final rule adds the following one entity to the MEU List:

China

- Beijing Skyrizon Aviation Industry Investment Co., Ltd.

Removals From the MEU List

The ERC reviews the MEU List regularly for identifying needed modifications, as specified in supplement no. 5 to part 744 (Procedures For End-User Review Committee Entity List Decisions). Consistent with the ERC's decision on the parties included in supplement no. 5, two entities are being removed from supplement no. 7 to part 744.

This rule removes "Korporatsiya Vsmo Avisma OAO," an entity located in Russia, from the MEU List because it is a duplicate listing of "Korporatsiya VSMPO AVISMA," an entity considered for inclusion on the MEU list but not included because the ERC determined it was not a 'military end user' based on the criteria in § 744.21(g) and (f).

This rule also removes "Molot Oruzhie," an entity located in Russia, from the MEU List because this entity was already listed on the Entity List and therefore did not require being additionally listed on the MEU List. The entry for "Molot Oruzhie" was added to the Entity List on December 23, 2020 (85 FR 83799). Entities on the Entity List are not also included on the MEU List.

This final rule removes the following two entities, consisting of two entities located in Russia, from the MEU List:

Russia

- Korporatsiya Vsmo Avisma OAO; and
- Molot Oruzhie.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country), on [INSERT DATE OF DISPLAY ON THE PUBLIC INSPECTION DESK], pursuant to actual orders for export, reexport, or transfer (in-country) to or within a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's

principal authorities and serves as the authority under which BIS issues this rule.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to § 1762 of the Export Control Reform Act of 2018, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no

regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 18, 2020, 85 FR 59641 (September 22, 2020); Notice of

November 12, 2020, 85 FR 72897 (November 13, 2020).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. Under CHINA, PEOPLE’S REPUBLIC OF, by adding in alphabetical order an entry for “China National Offshore Oil Corporation Ltd.” The addition reads as follows:

Supplement No. 4 to Part 744—Entity List

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Country	Entity	License requirement	License review policy	Federal Register citation
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CHINA, PEOPLE’S REPUBLIC OF.	China National Offshore Oil Corporation Ltd., No. 25 Chaoyangmen North Street, Dongcheng District, Beijing, 100010, China	All items subjects to the EAR except for: —crude oil, condensates, aromatics, natural gas liquids, hydrocarbon gas liquids, natural gas plant liquids, refined petroleum products, liquefied natural gas, natural gas, synthetic natural gas, and compressed natural gas under the following Harmonized System (HS) codes: 271111, 2711210000, 2711210000, 2709, 2709002010, 2707, 27075000, 2710, 271019, 271112, 271113, 271114, 271119, 27111990, 271311, 271312, 271012250, 2901, 290511, 2701, 29109020, 29151310, 29155020, 29156050, 29159020, 29161210, 29280025, 29321910, 29362920, 29419030, 2909300000, 2917194500, 2922504500, 2924296000, 2925294500, 2928002500, 2933194350; <i>or</i> —required for the continued operation of joint ventures with persons from countries in Country Group A:1 in supplement no. 1 to part 740 of the EAR not operating in the South China Sea	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER 1/15/2021].
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■ 3. Supplement No. 7 to part 744 is amended:

■ a. Under CHINA, PEOPLE’S REPUBLIC OF, by adding in

alphabetical order an entry for “Beijing Skeyrizon Aviation Industry Investment Co., Ltd.,” and
■ b. Under RUSSIA, by removing the entries for “Korporatsiya Vsmpto Avisma OAO” and “Molot Oruzhie.”

The addition reads as follows:

Supplement No. 7 to Part 744—‘Military End-User’ (MEU) List

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Country	Entity	Federal Register citation
CHINA, PEOPLE’S REPUBLIC OF.	* * * * *	

Country	Entity	Federal Register citation
CHINA, PEOPLE'S REPUBLIC OF.	Beijing Skyrizon Aviation Industry Investment Co., Ltd., a.k.a., the following one alias: —Beijing Tianjiao Aviation Industry Investment Company 21/F Tower C Zhizhen Plaza, No. 7 Zhichun Road, Haidian District, Beijing, China.	86 FR [INSERT FR PAGE NUMBER 1/15/2021].
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Matthew S. Borman,
Deputy Assistant Secretary for Export Administration.
[FR Doc. 2021-00995 Filed 1-14-21; 8:45 am]
BILLING CODE 3510-33-P

DEPARTMENT OF COMMERCE
Bureau of Industry and Security
15 CFR Parts 730, 734, 736, and 744
[Docket No. 210112-0007]
RIN 0694-AI38

Expansion of Certain End-Use and End-User Controls and Controls on Specific Activities of U.S. Persons

AGENCY: Bureau of Industry and Security, Commerce.
ACTION: Interim final rule.

SUMMARY: The Bureau of Industry and Security (BIS), Department of Commerce, is issuing this interim final rule to implement the provisions of the Export Control Reform Act of 2018 by: imposing additional license requirements under the Export Administration Regulations (EAR) for exports, reexports, and transfers (in-country), as well as specific activities of U.S. persons, in connection with certain military-intelligence end uses and end users; clarifying that license requirements under the EAR for specific activities of U.S. persons apply even when the items at issue are not subject to the EAR; establishing restrictions on transactions intended to circumvent license requirements for listed entities; and expanding the scope of activities subject to chemical and biological weapons and rocket systems and unmanned aerial vehicles end-use controls.

DATES: *Effective date:* This rule is effective March 16, 2021. *Comment date:* Comments must be received by BIS no later than March 1, 2021.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (www.regulations.gov). The

regulations.gov ID for this rule is: BIS-2020-0044 or RIN 0694-AI38. All relevant comments (including any personally identifying information) will be made available for public inspection and copying. Follow the instructions for submitting comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and also provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC.” Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. The corresponding non-confidential version of those comments must be clearly marked “PUBLIC.” The file name of the non-confidential version should begin with the character “P.” The “BC” and “P” should be followed by the name of the person or entity submitting the comments or rebuttal comments. Any submissions with file names that do not begin with either a “BC” or a “P” will be assumed to be public and will be made publicly available through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Philip Johnson, Senior Advisor, Export Enforcement, Bureau of Industry and Security, Phone: (202) 482-3685, Philip.Johnson@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018

(ECRA) (50 U.S.C. 4801-4852). ECRA directs the President to control exports, reexports, and transfers (in-country); as well as the activities of U.S. persons in connection with nuclear, chemical, and biological weapons; whole plants for chemical weapons precursors; missiles; foreign maritime nuclear projects; and foreign military intelligence services. Accordingly, BIS is amending parts 730, 734, 736, and 744 of the Export Administration Regulations (EAR) (15 CFR parts 730 through 774) to implement such controls. BIS is also making certain revisions to enhance existing end-use and end-user controls under the EAR, including their enforceability.

Restrictions on Specific Activities of U.S. Persons

Section 1753(a)(2) of ECRA (50 U.S.C. 4812(a)(2)) directs the President to impose controls on the activities of U.S. persons, wherever located, relating to specific nuclear explosive devices, missiles, chemical or biological weapons, whole plants for chemical weapons precursors, foreign maritime nuclear projects, and foreign military intelligence services. Additionally, section 1754(d) of ECRA (50 U.S.C. 4813(d)) directs the Secretary of Commerce to require U.S. persons to apply for and receive a license to engage in specific activities in connection with nuclear explosive devices, missiles, chemical or biological weapons, whole plants for chemical weapons precursors, and foreign maritime nuclear projects, regardless of whether such activities occur in connection with an export, reexport, or transfer (in-country) of items subject to the EAR. Although section 1754(d)(2) of ECRA (50 U.S.C. 4813(d)(2)) does not specifically direct the Secretary of Commerce to impose a license requirement on the activities of U.S. persons in connection with foreign military intelligence services, section 1754(a)(16) of ECRA (50 U.S.C. 4813(a)(16)) authorizes the Secretary to undertake any other action not otherwise prohibited by law to carry out the authorities granted to the President