



FedEx Regulatory Alerts & Updates

Regulatory Alert: U.S. Export Licensing Changes for Hong Kong

July 2, 2020

Background

On June 29, 2020, the U.S. State Department and the U.S. Commerce Department issued separate statements regarding the availability of export licenses and export license exceptions when exporting, re-exporting or transferring military or dual-use items to the territory of Hong Kong.

What are the primary impacts of these announcements?

1. U.S. State Department Announcement

According to the State Department announcement, they will no longer grant licenses for export of U.S. origin defense equipment to Hong Kong. Going forward the State Department will apply the same license determination for dual-use items and technologies for Hong Kong that they apply for China. The change is effective as of June 29, 2020.

2. U.S. Commerce Department Announcement

According to the Commerce Department announcement, regulations affording preferential treatment to Hong Kong over China, including the availability of export license exceptions, are suspended. Further actions to eliminate differential treatment are also being evaluated.

As a result, items subject to U.S. Export Administration Regulations (EAR) with an Export Control Classification Number (ECCN) for national security, chemical and biological weapons, missile technology and U.S. arms embargoes, will have more stringent licensing and fewer license exceptions when being exported to, re-exported to, or transferred within the territory of Hong Kong. The Commerce Department, Bureau of Industry and Security (BIS), posted notice of the change on its website on June 30, stating that the changes are effective, June 30, 2020. However, there is a savings clause for shipments on the dock for loading or en route aboard a carrier on June 30, 2020.

Q&A

Q1. Will exports to, re-exports to, or transfers within the territory of Hong Kong require a license?

A1. Customers exporting, re-exporting and transferring U.S. origin items that have a Commerce ECCN classification or State U.S. Munitions List (USML) classification will have to review their analysis of the available licenses and license exceptions and apply the same regulatory requirements that are currently in place were the customer shipping those items to China. This may include applying for a license from the Commerce Department or State Department.

Q2. What is an ECCN?

A2. ECCN stands for Export Control Classification Number; it is used to classify goods, technology and software to determine whether an export license is required from the U.S. Commerce Department, BIS. If you need assistance with classifying your product or understanding these requirements, you should contact the export control officer at your company. BIS also has counselors that can assist you:

- Eastern Regional Office 202.482.4811
- Western Regional Office 949.660.0144
- Northern CA Branch 408.998.8806

Q3. What is the USML?

A3. USML stands for the U.S. Munitions List; it is a list of articles, services and technical data designated by the State Department as defense articles or services. Exporters who intend to export a defense article or service must obtain a license from the State Department or qualify for an exemption under the applicable regulations.

Q4. Who is responsible for determining whether a shipment is required to have an export license?

A4. **The exporter is responsible for ensuring that any export complies with U.S. laws and regulations.** As such, the exporter must classify the goods, technology or software being shipped to determine whether an export license is required.

References:

U.S. State Department Press Releases

<https://www.state.gov/u-s-government-ending-controlled-defense-exports-to-hong-kong/>
<https://www.state.gov/on-beijings-imposition-of-national-security-legislation-on-hong-kong/>

U.S. Commerce Department Press Release

<https://www.commerce.gov/news/press-releases/2020/06/statement-us-secretary-commerce-wilbur-ross-revocation-hong-kong>

BIS Guidance June 30, 2020

<https://www.bis.doc.gov/index.php/documents/pdfs/2568-suspension-of-license-exceptions-for-exports-and-reexports-to-hong-kong/file>