

Fried Frank International Trade and Investment *Alert*TM

BIS Adds 28 Chinese Entities to the Entity List, Including Surveillance and AI Companies

On October 9, 2019, the U.S. Department of Commerce's Bureau of Industry and Security (BIS) [added](#) 28 Chinese entities to the Entity List for their role in human rights violations in China's Xinjiang province. The additions include 20 governmental entities and eight artificial intelligence and surveillance companies. Effectively, these entities are no longer eligible to receive U.S.-origin goods, services, or technology, even those items not typically subject to export licensing requirements. BIS issued a [press release](#) stating that these additions were in response to reported human rights abuses in China's Xinjiang Uighur Autonomous Region. This action comes only days before the next round of China/United States trade negotiations and targets Chinese emerging startup companies with cutting-edge technologies.

The following entities are now subject to Entity List restrictions:

- The Xinjiang Uighur Autonomous Region (XUAR) People's Government Public Security Bureau;
- 18 XUAR subordinate municipal and county public security bureaus;
- Xinjiang Police College, a XUAR subordinate institute;
- Dahua Technology;
- Hikvision;
- IFLYTEK;
- Megvii Technology;
- Sense Time;
- Xiamen Meiya Pico Information Co. Ltd.;
- Yitu Technologies; and
- Yixin Science and Technology Co. Ltd.

Exports, reexports, and in-country transfers of items subject to the Export Administration Regulations (EAR), including those items classified as EAR99, to these entities, now carry a licensing requirement. BIS is imposing a license review policy of case-by-case review for Export Control Classification Numbers

(ECCN) 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, as well as items designated as EAR99 that are described in the Note to ECCN 1A995, specifically, items for protection against chemical or biological agents that are consumer goods, packaged for retail sale or personal use, or medical products. BIS will apply a presumption of denial policy for all other items subject to the EAR. As per standard BIS practice, any shipments already en route aboard a carrier to a port of export or reexport pursuant to actual orders for export or reexport may continue to their destination in spite of the new Entity List designations.

Though U.S. businesses and U.S. exports are less likely to be affected by the governmental entity designations, U.S. exporters may have material business relations with some of the eight technology companies listed. Additionally, foreign companies that deal in items subject to the EAR may also be affected by these designations and the new restrictions on reexports and in-country transfers to these entities. Though BIS notes that these companies were complicit in human rights violations, particularly “high-technology surveillance,” these designations reflect increased trade-related tensions between the United States and China as a whole, particularly where emerging technologies are concerned. This action reflects the increased willingness of the United States to make use of the Entity List to apply targeted sanctions against companies that manufacture dual-use goods subject to the EAR for the perceived threat to U.S. interests or national security. This follows BIS’s addition of Huawei and China General Nuclear Power Corporation to the Entity List earlier this year, citing national security concerns. The Trump administration continues to pursue an anti-China policy, and this new use of the Entity List in this way shows that the Administration plans to use all available tools at its disposal to pursue that policy.

All U.S. companies that conduct business with China, as well as foreign companies that deal in items subject to the EAR and export goods to China, particularly in the technology sphere, should review their customer lists to determine if they are affected by these Entity List designations. Additionally, they should remain vigilant in monitoring U.S. regulatory decisions relating to China. If you have any questions regarding U.S. regulatory changes related to China or how they may affect your business, please reach out to the contacts listed below.

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