Commerce Department Proposes to Ease Licensing Requirements for Strategic Trade Authorization

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On December 6, 2023, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") published a proposed rule to amend License Exception Strategic Trade Authorization ("STA") within the Export Administration Regulations for allied and partner countries. In addition, BIS noted that certain burdens exist within the STA process, causing the exception to be underutilized, and is soliciting comments to better understand why exporters have been discouraged from using STA. Comments on the proposed rule are due by February 6, 2024.

The STA license exception authorizes a broad array of export activity that would otherwise require an export license, if certain notice and recordkeeping procedures are followed. However, historically, exporters have frequently sought an export license rather than relying on the STA exception. To increase usage of STA and decrease export license requests when STA is available, the proposed rule seeks to:

- Clarify that STA is a transaction-based license exception and exporters do not need to review the Commerce Control List to determine if STA is available for a particular Export Control Classification Number ("ECCN").
- Add text to make it more explicit that STA is eligible for deemed exports and deemed reexports.
- Exclude deemed exports and deemed reexports from the requirement to have been listed on an approved license or other approval for "600 series" technology.
- Adopt a simpler and consistent approach to identify ECCNs eligible for STA.
- Remove the limitation on the use of License Exception Additional Permissive Reexports for reexports between and among certain partner and ally countries to reflect their close coordination with the United States on export controls.

In addition to the proposed STA changes, BIS published two final rules also designed to ease certain categories of export licensing requirements and expand the availability of export license exceptions for key allied and partner countries.

The first rule changes licensing requirements for certain Australia Group (AG)-controlled pathogens and toxins (and their related technologies) so that no license is required to AG countries, unless the item is also subject to Chemical Weapons Convention controls. The rule also loosens licensing requirements on crime controls for certain countries.

The second rule expands license exception eligibility to additional countries for certain missile technology items excluding any countries of concern for missile technology reasons or that are subject to a U.S. arms embargo (i.e., countries specified in Country Groups D:4 or D:5). The rule also updates list-based controls to align with recent Missile Technology Control Regime control list changes.

Please contact our sanctions and export controls team if you require any assistance navigating these changes