

Attachments to November 20, 2025 Kevin Wolf Testimony. These documents are only working and draft summaries and are thus not legal advice.

Exhibit 1 – Summary and Chronology of Plurilateral SME and Related Controls

Date	Target	Type of Control	US Control	Japanese Control	Netherlands Control	Other Country Controls
October 2018	JHICC (a PRC memory fab)	Entity List listing	License required, <u>presumptively denied</u>	No similar end-user restriction	No similar end-user restriction	No similar end-user restriction
December 2020	SMIC (PRC logic fabs, including advanced and legacy fabs)	Entity List listing	License required, licenses granted for a while if for legacy node ICs	No similar end-user restrictions	No similar end-user restriction	No similar end-user restriction
October 2022 Now at 744.23(a)(2)	All of China	End use controls over exports of items subject to the EAR for IC development or production in fabs that produce advanced node ICs	License required, <u>presumptively denied in most cases</u>	No similar end-use restrictions	No similar end-use restriction	No similar end-use restriction
October 2022 Now at 744.6(c)(2)	All of China	Controls over US company activities when items not subject to EAR	License required, <u>presumptively denied in most cases</u>	No similar restrictions on Japanese companies	No similar restrictions on Netherlands companies	No similar restrictions
October 2022 Now at 744.23(a)(4)	All of China and any Chinese company outside of China	Controls on all items subject to EAR if for development or production of SME	License required, <u>presumptively denied in most cases</u>	No similar end-use restrictions	No similar end-use restrictions	No similar end-use restrictions
October 2023	China	Specific chokepoint SME	License required, presumptively denied	License required	License required	No restrictions
September 2024	Worldwide (<u>minus countries that impose same controls</u>)	Specific chokepoint SME	License required	License required	License required	License required by “Wassenaar Minus One” countries
December 2024	China	Specific chokepoint SME	License required	License required	License required	No restrictions
December 2024	“Footnote 5” fabs in PRC	All US origin items and specific foreign SME	License required, but some requirements exempt allied countries but not US companies	License required, but not for many types of items	License required, but not for many types of items	No restrictions
December 2024	Many PRC SME companies	Entity List listing for all items subject to EAR	License required, presumptively denied	No similar end-user restrictions	No similar end-user restrictions	No similar end-user restrictions
January 2025	CXMT affiliates	Expansion of definition of “advanced node” DRAM	License required, presumptively denied	License required, but only for chokepoint SME	License required, for only for chokepoint SME	No similar end-use restrictions
September 2025	All subsidiaries of listed entities	Change to scope of Entity List and other rules	License required, but requirement <u>suspended on November 10, 2025 for one year</u>	No restrictions	No restrictions	No restrictions

Exhibit 2 – Summary and Comparison of SME controls of the US, Japan, and the Netherlands

Type of Control	US Controls	Japan Controls	Netherlands Controls
List-Based Control: Exports to China of front-end SME important to producing advanced node logic, which are described in ECCNs 3B001.a.4, c, d, f.1, f.5, f.6, k to n, p.2, p.4, r; 3B002.c; 3D992; or 3E992	Yes (742.2(a)(4))	Yes	Yes ¹
End-Use Control: Exports of unlisted (or listed and uncontrolled) commodities, software, and technology for use in developing or producing ICs produced in fabs in China that produce advanced node ICs	Yes (744.23(a)(2))	No ²	No
End-Use Control: Exports of listed but not otherwise controlled commodities, software, and technology for use in developing or producing front-end SME in China or outside of China by Chinese companies	Yes (744.23(a)(4))	No	No
Person Control: Provision of services and other support for the development or production of ICs in China at fabs that produce advanced node ICs	Yes (744.6(c)(2)(i))	No	No
End-User Control: Exports of any unlisted and uncontrolled US-origin items of any sort to entities on the Entity List	Yes (744.11(a))	No ³	No
Person Control: Provision of services and other support involving advanced node SME and components to China	Yes (744.6(c)(2)(iii))	No	No
Extraterritorial End User Control: Shipments from outside US of foreign-made items made with US technology or equipment made from US technology to or involving, even indirectly, a list of specific Entity List entities (such as Huawei or FN5 entities) ⁴	Yes (734.9(e)(1) and (e)(3))	No	No
Extraterritorial Equipment Control: Shipments from outside US of foreign-made SME described in ECCNs 3B001.a.4, c, d, f.1, f.5, f.6, k to n, p.2, p.4, r, or 3B002.c when made with US technology or equipment made from US technology to Macau or a D:5 country.	Yes (734.9(k))	No	No

¹ Exports to China of front-end SME important to producing advanced node logic, which are described in Dutch ECCNs 3B801.a.4 (similar to U.S. ECCN 3B001.a.4), 3B801.c.1 and c.2 (similar to U.S. ECCN 3B001.c), 3B801.d.1 through d.9 (similar to U.S. ECCN 3B001.d), 3B801.f.5, f.6 and f.7 (similar to U.S. ECCN 3B001.f), 3B801.l (similar to U.S. ECCN 3B001.l), 3B802.c (similar to U.S. ECCN 3B002.c), 3D805 through 3D809 (similar to U.S. ECCN 3D992), and 3E805 through 3E808 (similar to U.S. ECCN 3E992).

² Prior reporting to METI is generally required for the transfer of some technologies subject to the catch-all controls to China and most other destinations regardless of the end use or end user. The reporting requirement gives METI a chance to exercise its authority to “inform” the exporter that the technology transfer requires an export license is required if METI identifies any risk of diversion of the relevant technology to the development, manufacturing or use of WMD or other controlled military items.

³ Japan maintains a Foreign End User List but it does not cover entities that have been identified on the US Entity List in connection with the SME-related controls. Designation on the Japanese Foreign End User List means that the export of any item subject to the catch-all controls (i.e., most items that are not subject to the list-based controls) would require a license, depending on the destination, unless it is apparent that the item will not be used for the development, production, use or storage of WMDs, or the development, production or use of conventional weapons.

⁴ When BIS extended jurisdiction over certain types of semiconductor manufacturing equipment in December 2024, it did not impose license requirements on shipments of many types of equipment by Japanese or Dutch-headquartered companies from locations outside Japan or the Netherlands. This contrasts with those applicable to US companies, which are subject to the full scope of extraterritorial license requirements for shipments conducted outside the United States. Thus, if a Dutch company and US company manufacture the same type of equipment in Singapore, both equipment would be subject to US jurisdiction, but only the equipment made by the US company would be subject to license requirements.

THE (I) ITEM-BASED, (II) END-USER-BASED, AND (III) END-USE-BASED US EXPORT CONTROLS THAT APPLY TO EXPORTS, EXPORTS FROM ABROAD, REEXPORTS, AND TRANSFERS (IN-COUNTRY)ⁱ OF SEMICONDUCTOR PRODUCTION EQUIPMENT, AND RELATED COMPONENTS, SOFTWARE, AND TECHNOLOGY

I. ITEM-BASED CONTROLS (i.e., licensing requirement is in item's ECCN)ⁱⁱ

COMMODITIES, ⁱⁱⁱ SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>I.A. Commodities, software, and technology affected by legacy NS1 or RS1 controls, regardless of (i) whether US-origin or foreign-produced, (ii) in or out of the US, and (iii) nationality of parties:</p> <p>1. Commodities: - 3B611 (for development/production of military electronics)</p> <p>2. Software: - 3D611.a (for development/production of 3B611) - 3D611.b (for development/production/use of technology in 3E611.b) - 3D001 for development/production of 3B items, except 3B001.a.4, c, d, f.1, f.5, k to n, p.2, p.4, r, 3B002.c, 3B903, 3B904, 3B991, 3B992, 3B993, or 3B994^{iv, v} - 3D002 for "use" of 3B001.a to .f, or 3B002 items - 3D003 (Computational lithography software for development of EUV masks)</p> <p>3. Technology: - 3E611 (for development/production/use of 3A611 (except 3A611.y), 3B611, 3D611 (except 3D611.y)). - 3E001 for development/production of 3B items, except 3B001.a.4, c, d, f.1, f.5, k to n, p.2, p.4, r, 3B002.c, 3B903, 3B904, 3B991, 3B992, 3B993, or 3B994.^{iv, vi}</p>	<p>I.A. Legacy NS1 or RS1 licensing requirements, license exceptions, and licensing policies:</p> <p>1. A license is required to export or reexport to, or transfer within, all countries except Australia, Canada, and the UK. <u>742.4(a)(1)</u> and <u>742.6(a)(1)</u></p> <p>2.a. No license exceptions available for 600 series items if to a D5 country. <u>740.2(a)(12)(i)</u></p> <p>2.b. License Exception STA available for 3B611, 3D611.a, 3E611.a (but not 3D611.b or 3E611.b) for A5 countries. <u>740.20(c)(1)</u>.</p> <p>2.c. LVS (\$1500) (<u>740.3</u>) for 3B611 per ECCN.</p> <p>2.d. STA and TSR are eligible for 3D001, 3D002, and 3D003 per ECCNs.</p> <p>2.e. TMP (<u>740.9</u>), RPL (<u>740.10</u>), GOV (<u>740.11</u>), TSU (<u>740.13</u>), APR (<u>740.16</u>) are generally available depending upon on item and activity.</p> <p>3.a. Licensing policy is presumption of denial for 600 series items to D5 or E country. <u>742.4(b)(1)(ii)</u></p> <p>3.b. Multiple and complex licensing policies for different countries set out in <u>742.4(b)</u> and <u>742.6(b)(1)</u>.</p>	<p>I.A. Ways in which US-origin and foreign-produced items within scope of legacy NS1 or RS1 controls and outside or in the US could be "subject to the EAR:"</p> <p>1. US-origin, from any location (<u>734.3(a)(2)</u>);</p> <p>2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>);</p> <p>3. Foreign produced and outside US with more than <u>de minimis amount of controlled US-origin content</u> (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>, but is 0% if destined to D:5 country (<u>734.4(a)(6)</u>);</p> <p>4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u> outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>);</p> <p>5. Foreign-produced, outside US, and within scope of <u>600 Series FDP rule</u>, i.e., that is (a)(i) direct product of US-origin 600 series software or technology (<u>734.9(d)(1)(i)</u>), or (a)(ii) equipment that is direct product of such technology or software (<u>734.9(d)(1)(ii)</u>); AND (b) destined to a D1, D3, D4, D5, or E country (<u>734.9(d)(2)</u>). (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>); OR</p> <p>6. Foreign produced, outside the US, and within the scope of one of the other Foreign Direct Product rules in <u>734.9</u>.</p>

COMMODITIES, ⁱⁱⁱ SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>I.B. Commodities, software, and technology affected by Wassenaar Minus One controls, regardless of (i) whether US-origin or foreign-produced, (ii) in or out of the US, and (iii) nationality of parties:</p> <p>1. Commodities:</p> <ul style="list-style-type: none"> - 3B001.c.1.a (isotropic dry etching) - 3B001.c.1.c (anisotropic dry etching) - 3B001.q (EUV masks with molybdenum or silicon 3B001.j substrate blank) - 3B903 (scanning electron microscopes) - 3B904 (cryogenic wafer probing equipment) <p>2. Software:</p> <ul style="list-style-type: none"> - 3D001 for development/production for 3B001.q - 3D002 for "use" of 3B001.c.1.a or c.1.c - 3D901 for development/production of 3B901.b, 3B903, or 3B904 - 3D907 (to extract GDSII files or generate GDSII data) - 3D992 for development/production of 3B001.c.1.a or c.1.c <p>3. Technology:</p> <ul style="list-style-type: none"> - 3E901 for development/production 3B903 or 3B904 - 3E905 for development/production of GAAFET ICs - 3E992 for development/production of 3B001.c.1.a or c.1.c 	<p>I.B. Wassenaar Minus One (NS) licensing requirements, license exclusions, and licensing policies:</p> <ol style="list-style-type: none"> 1. A license is required to export or reexport to, or transfer within, all countries. 742.4(a)(5)(i) and 742.6(a)(10)(i) 2.a. License Exception IEC is available, depending on the item at issue, to IEC-eligible countries. 740.24 2.b. Limited availability of TMP (740.9), RPL (740.10), GOV (740.11), and TSU (740.13) to most countries. 740.2(a)(22) 2.c. There are complex deemed export/reexport "exclusions." 742.4(a)(5)(ii) and 742.6(a)(10)(ii) 3. The licensing policy is (a) presumption of approval if to A1, A5, or A6 countries; (b) presumption of denial if to D1 or D5 countries; or (c) case-by-case to all other destinations, unless a more restrictive policy would apply for other reasons. 742.4(b)(10) and 742.6(b)(11) 	<p>I.B. Ways in which US-origin and foreign-produced items within scope of Wassenaar Minus One controls and outside or in the US could be "subject to the EAR:"</p> <ol style="list-style-type: none"> 1. US-origin, from any location (734.3(a)(2)); 2. Sent from US, regardless of origin (734.3(a)(1)); 3. Foreign produced and outside US with more than de minimis amount of controlled US-origin content (734.3(a)(3)), which is usually 25% (734.4(d)); 4. Foreign-produced and a type of National Security-controlled item (734.9(b)(1)(i)(B) or 734.9(b)(1)(ii)(B)) outside the US, and within scope of National Security FDP rule, i.e., that is (a)(i) the direct product of US-origin NS-controlled technology or software (734.9(b)(1)(i)(A)), or (b) the direct product of equipment that is (734.9(b)(1)(ii)(A)); AND (b) destined to a country in group D1 or E (734.9(b)(2)) (734.3(a)(4) and 734.3(a)(5)); OR 5. Foreign produced, outside the US, and within the scope of one of the other Foreign Direct Product rules in 734.9.

COMMODITIES, ⁱⁱⁱ SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>I.C. Commodities, software, and technology affected by the Legacy NS2 or RS2 controls, regardless of (i) whether US-origin or foreign-produced, (ii) in or out of the US, and (iii) nationality of parties:</p> <p>1. Commodities:</p> <ul style="list-style-type: none"> - 3B001.a.1 (epi) - 3B001.a.2 (MOCVD) - 3B001.a.3 (molecular beam epi) - 3B001.b (ion implantation) - 3B001.e (wafer handling systems) - 3B001.f.2 (imprint litho) - 3B001.f.3 (litho mask making) - 3B001.f.4 (litho for device processing) - 3B001.g (masks for 3A001 ICs) - 3B001.h (masks for use with litho) - 3B001.i (imprint litho templates) - 3B001.j (EUV masks substrate blanks) - 3B002.a (test/inspection for S-parameters) - 3B002.b (for testing microwave ICs) <p>2. Software:^{vii}</p> <ul style="list-style-type: none"> - 3D006 (for development of GAAFET ICs) <p>Technology:</p> <p>Note: All technology for such commodities is controlled for NS1 (not NS2) reasons in 3E001.^{viii}</p>	<p>I.C. Legacy NS2 and RS2 license requirements, license exceptions, and licensing policies:</p> <ol style="list-style-type: none"> 1. A license is required to export such items worldwide except to the <u>A:1</u> countries. <u>742.4(a)(2)</u> and <u>742.6(a)(4)(i)</u> 2.a. License Exceptions LVS (\$500) <u>740.3</u> (except 3D006, TSR <u>740.6</u> (except 3D006), TMP <u>740.9</u> (not really for 3D006), RPL <u>740.10</u> (except 3D006), GOV <u>740.11</u>, TSU <u>740.13</u>, APR <u>740.16</u> are generally available depending upon on destination and activity. 2.b. GBS <u>740.4</u> available, except 3B001a.3 (molecular beam epi), 3B001.f (litho), and 3D006. 3. Multiple and complex licensing policies for different countries set out in <u>742.4(b)</u> and <u>742.6(b)(2)</u>. 	<p>I.C. Ways in which US-origin and foreign-produced items within scope of legacy NS2 or RS2 controls and outside or in the US could be "subject to the EAR:"</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign origin outside US with more than de minimis <u>controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); 4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u> outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u>, or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>). (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>); OR 5. Foreign produced, outside the US, and within the scope of one of the other Foreign Direct Product rules in <u>734.9</u>.

COMMODITIES, ⁱⁱⁱ SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>I.D Commodities, software, and technology affected by the SME FDP controls, regardless of (i) whether US-origin or foreign-produced, (ii) in or out of the US, and (iii) nationality of parties:</p> <p>1. Commodities:</p> <ul style="list-style-type: none"> - 3B001.a.4 (epi for Si or SiGe) - 3B001.c (dry etch) - 3B001.d (deposition) - 3B001.f.1 (litho) - 3B001.f.5 (imprint litho) - 3B001.f.6 (commodities for improving deep-UV immersion photolithography equipment) - 3B001.k (ion beam depo for EUV masks) - 3B001.l (EUV pellicles) - 3B001.m (for manufacturing EUV pellicles) - 3B001.n (for creating EUV photoresists) - 3B001.p.2 (wet cleaning) - 3B004.p.4 (cleaning using CO2) - 3B001.r (for EUV pattern shaping) - 3B002.c (inspection for EUV mask blanks/patterned masks) 	<p>I.D. SME FDP License Requirements, License Exclusions, and Licensing Policies:</p> <ol style="list-style-type: none"> 1. A license is required to export, reexport, or transfer such items to or within Macau/D5 (China). <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> 2.a. There are not license exceptions, but there is a license "exclusion" for reexports or transfers (i.e., from outside the US) by companies in Supp. 4 countries (e.g., JP or NL)^{ix} and not HQ'd in China for foreign-produced items subject to the EAR because the item (i) contains a US-origin IC (734.4(a)(8)); or (ii) is within the scope of the SME FDP rule (734.9(k)). <u>742.4(a)(4)(ii)(B)</u> 2.b. There is a potential exclusion for such foreign-produced items if the country (e.g., ROK) adopts equivalent controls. <u>742.4(a)(4)(ii)(C)</u> 2.c. There is deemed export/reexport exclusion at: <u>742.4(a)(4)(ii)(A)</u> and <u>742.6(a)(6)(i)(A)(2)(i)</u>. 3. The licensing policy depends upon the end user and foreign availability. Presumption of denial unless there is a foreign-made substitute not subject to the EAR license requirements. Presumption of approval if for US end users or companies HQ'd in A5 or A6 countries and not majority owned by Macau/D5 company. <u>742.4(b)(2)</u> and <u>744.23(d)</u> 	<p>I.D. Ways in which US-origin and foreign-produced items within scope of SME FDP controls and outside or in the US could be "subject to the EAR:"</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign origin outside US with more than de minimis <u>controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); 4. Foreign-produced commodity,^x outside the US, and contains a US- or a foreign-origin IC (<u>734.3(a)(3)</u>), <u>734.4(a)(8)</u>, <u>734.9(k)(1)(ii)(B)</u> and <u>Red Flag 26</u> (<u>734.3(a)(5)</u>); 5. Foreign-produced commodity, outside the US, if produced by equipment that is the direct product of US-origin Cat 3 software or technology (<u>734.9(k)(1)(ii)(A)</u> and <u>734.3(a)(5)</u>); 6. Foreign-produced commodity, outside the US, does not contain an IC but contains a foreign-origin commodity of any sort that is produced by equipment that is the direct product of US-origin Cat 3 software or technology (<u>734.9(k)(1)(ii)(B)</u> and <u>734.3(a)(5)</u>); OR 7. Foreign-produced commodity, outside the US, without an IC or other component produced from covered technology/equipment, but produced directly from 3D992 software or 3E992 technology subject to the EAR (<u>734.9(k)(1)(i)</u> and <u>(734.3(a)(4)</u>).

COMMODITIES, ⁱⁱⁱ SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>I.E. Commodities, software, and technology affected by Legacy AT-only controls, regardless of (i) whether US-origin or foreign-produced, (ii) in or out of the US, and (iii) nationality of parties:</p> <p>1. Commodities: - 3B991 - 3B992</p> <p>2. Software: - 3D991 (development/production/use of 3B991 or 3B992, or for use of 3B001.g or 3B001.h)</p> <p>3. Technology: - 3E991 (development/production/use of 3B991 or 3B992)</p>	<p>I.E. Legacy AT-Only Controls (i.e., if no other controls above apply) Licensing Requirements, License Exception, and Licensing Policies</p> <p>1. A license is required to export, reexport, or transfer to or within Iran, Syria, North Korea, Cuba, Occupied Ukraine, Russia, or Belarus. <u>742.8(a)(1)</u> / <u>746.7(a)(1)(i)</u>, <u>742.9(a)(1)</u> / <u>746.9(a)</u>, <u>742.19(a)(1)</u> / <u>746.4(a)</u>, <u>746.2(a)</u>, <u>746.6(a)(1)</u> and <u>746.6(a)(2)</u>, and <u>746.8(a)</u></p> <p>2. No license exceptions. <u>740.2(a)(6)</u></p> <p>3. Licensing policies of presumptive denial with exceptions not relevant here.</p>	<p>I.E. Ways in which US-origin and foreign-produced items within scope of legacy AT-only controls and outside or in the US could be "subject to the EAR:"</p> <p>1. US-origin, from any location (<u>734.3(a)(2)</u>);</p> <p>2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>);</p> <p>3. Foreign origin outside US with more than de minimis <u>controlled</u> US-origin content (<u>734.3(a)(3)</u>), which are either 25% (<u>734.4(d)</u> or 10% (<u>734.4(c)</u>); OR</p> <p>4. Foreign produced, outside the US, and within the scope of one of the Foreign Direct Product rules in <u>734.9</u>.</p>
<p>I.F. Any type of commodity, software, technology, or service regardless of whether subject to the EAR</p>	<p>I.F. License Obligations and Conditions</p> <p>The export, reexport, or transfer of any type of item, whether subject to the EAR or not, can be within the scope of a <u>license condition</u>, the conditions of a letter authorization, an <u>Is Informed letter</u>, a <u>temporary general license</u>, or a <u>Validated End User^{xi}</u> authorization. Thus, in addition to reviewing EAR provisions for licensing obligations, one must determine if there are any conditions in any such authorizations that would limit or affect an activity. <u>764.2(a)</u>.</p>	n/a

II. END USER-BASED CONTROLS (i.e., Entity List, Military End User, Denied Person, Unverified List, and SDN Controls)

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
II.A. Any commodity, software, or technology, regardless of whether (i) US-origin or foreign-produced, or (ii) in or out of US, unless excluded by Entity List designation for the entity involved.	<p>II.A. Entity List Controls – When No Footnoted Entities are Involved.</p> <p>1. A license is required to export, reexport, or transfer any item “subject to the EAR” for legacy jurisdictional reasons when any <u>Entity List</u> entity or entity using listed address would be a <u>purchaser, end user, ultimate consignee, or intermediate consignee</u>. (The scope of “party to the transaction” is limited to these four types of parties, which is different than in Entity List FDP rules). <u>744.11(a)</u> and <u>744.16(a)</u></p> <p>2. No license exceptions, unless authorized in Entity List designation (which are rare). <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u></p> <p>3. The licensing policy is usually one of presumption of denial, but answer depends on statement of policy in Entity List designation. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, <u>Part 744, Supp. No. 4</u></p>	<p>II.A. Ways in which US-origin and foreign-produced items outside or in the US could be “subject to the EAR:”</p> <p>1. US-origin, from any location (<u>734.3(a)(2)</u>);</p> <p>2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>);</p> <p>3. Foreign produced and outside US with more than de minimis <u>controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); OR</p> <p>4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u>) outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology</u> or <u>software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>).^{vi}</p>

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>II.B. Any commodity, software, or technology, regardless of whether US-origin or foreign-produced, or (ii) in or out of US, unless excluded by Entity List designation for the entity involved.</p>	<p>II.B Entity List Controls – When Footnote 1 (Huawei) or Footnote 4 Entities are Involved.</p> <p>1.a. A license is required to export, reexport, or transfer any such item “subject to the EAR” for legacy jurisdictional reasons (e.g., being US-origin) when any <u>Entity List</u> entity or entity using listed address would be a <u>purchaser, end user, ultimate consignee, or intermediate consignee</u>. <u>744.11(a) 744.16(a)</u></p> <p>1.b. A license is also required to export from abroad, reexport, or transfer to anyone from outside the United States any foreign-made item “subject to the EAR” as a result of the FN1 or FN4 FDP rules. <u>744.11(a)(2)(i) 744.11(a)(2)(iv)</u></p> <p>2. No license exceptions are available unless authorized by BIS, which has not happened. <u>740.2(a)(2)</u> and <u>744.11(a)(2)(i)</u></p> <p>3. Although there is a case-by-case policy for FN1 entities if the item is below a 5G-capable item, the licensing policies for FN1 and FN4 entities are usually presumptions of denials. <u>744.11(a)(2)(i), 744.11(a)(2)(iv), and Part 744, Supp. No. 4</u></p>	<p>II.B. Ways in which US-origin and foreign-produced outside or in the US could be “subject to the EAR:”</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign produced and outside US with more than <u>de minimis amount of controlled US-origin content</u> (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); or 4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u>) outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>); OR 5. Foreign-produced, outside the US, and within the scope of either the FN1 (Huawei) or FN 4 <u>Entity List FDP rules</u>, i.e., that is: <ol style="list-style-type: none"> (a)(i) the <u>direct product</u> of <u>Cat 3, 4, or 5 technology or software subject to EAR</u>, or (a)(ii) produced by (including tested by), even in part, equipment that is the <u>direct product</u> of such <u>technology or software</u>; AND (b)(i) will be incorporated into or used to <u>develop or produce</u> a commodity <u>produced</u>, purchased, or ordered by FN1 or FN4 entity; or (b)(ii) a FN1 or FN4 entity is a party to the transaction (<u>734.9(e)(1)</u> and <u>734.9(e)(2)</u>). (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>) <p>Note: “Party to the transaction” is not limited to “end users,” “ultimate consignees,” “intermediate consignees,” and “purchasers.” Remaining scope of who is a “party” is deliberately undefined.</p>

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
II.C. Any commodity, software, or technology, regardless of whether US-origin or foreign-produced, or (ii) in or out of US, unless excluded by Entity List designation for the entity involved.	<p>II.C. Entity List Controls – When Footnote 3 (Russian MEU) Entities are Involved</p> <p>1.a. A license is required to export, reexport, or transfer any such item “subject to the EAR” for legacy jurisdictional reasons (e.g., being US-origin) when any <u>Entity List</u> entity or entity using listed address would be a <u>purchaser, end user, ultimate consignee, or intermediate consignee</u>. <u>744.11(a)</u> and <u>744.16(a)</u></p> <p>1.b. A license is also required to export, reexport, or transfer to anyone from outside the United States any foreign-made item “subject to the EAR” as a result of the Russia MEU (FN3) FDP rules. <u>744.11(a)(2)(iii)</u> and <u>746.8(a)(3)</u></p> <p>2.a. A license is, however, not required if a foreign-produced item is subject to the EAR because of the Russian FN3 MEU FDP rule and shipped from a <u>GECC country in Supp. No. 3</u>. <u>746.8(a)(12)(iii)(A)</u>.</p> <p>2.a. No license exceptions are available unless authorized by BIS, which has not happened. <u>740.2(a)(2)</u></p> <p>3. The licensing policy is generally a presumption of denial as described in the Entity List designation. <u>744.11(a)(2)(iii)</u> and <u>Part 744, Supp. No. 4</u></p>	<p>II.C. Ways in which US-origin and foreign-produced outside or in the US could be “subject to the EAR:”</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign produced and outside US with more than <u>de minimis amount of controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); 4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u>) outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>); OR 5. Foreign-produced, outside the US, and within the scope of the Russia/Belarus MEU FDP rule, i.e., that is <ul style="list-style-type: none"> (a)(i) the <u>direct product</u> of <u>technology or software subject to the EAR</u> and on the <u>CCL</u>, or (a)(ii) <u>produced</u> by (included tested by), even in part, equipment that is the <u>direct product</u> of such <u>technology or software</u>; AND (b)(i) will be incorporated into, or used to <u>develop or produce</u>, any commodity <u>produced</u>, purchased, or ordered by any FN3 entity on <u>Entity List</u>; or (b)(ii) any FN3 entity is a party to the transaction (<u>734.9(g)</u>). (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>)

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
II.D.1. Any commodity, software, or technology, regardless of whether US-origin or foreign-produced, or (ii) in or out of US.	<p>II.D.1. FN5 Entity List Controls – for items subject to EAR for legacy jurisdictional reasons.</p> <ol style="list-style-type: none"> 1. A license is required to export, reexport, or transfer^{xii} to or within any country any such item^{xiii} “subject to the EAR” for legacy jurisdictional reasons (e.g., being US-origin) when any FN5 <u>Entity List</u> entity would be a <u>purchaser</u>, <u>end user</u>, <u>ultimate consignee</u>, or <u>intermediate consignee</u>. <u>744.11(a)</u> and <u>744.16(a)</u> 2. No license exceptions, except License Exception RFF (740.26) when XMC is involved and conditions can be satisfied. <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u> 3. The licensing policy is usually one of presumption of denial for most FN5 entities, but case-by-case for XMC if foreign availability can be demonstrated. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, Part 744, Supp. No. 4 	<p>II.D.1. Ways in which US-origin and foreign-produced items outside or in the US could be “subject to the EAR” for legacy jurisdictional reasons:</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign produced and outside US with more than <u>de minimis</u> amount of <u>controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); OR 4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u>) outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>).

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>II.D.2. Foreign-produced 3B993 commodities (but not technology or software) exported from Korea, Argentina, Türkiye or India to (i) FN5 fab; OR (ii) unlisted fab in Macau/D5 that produces advanced node DRAM or logic</p> <p>- 3B993 (node-agnostic tools moved from 3B001, including high-aspect ratio etch, dielectric depo, less-advanced DUV equipment, annealing equipment, and cleaning equipment, in addition to ion implantation, deposition, removal/cleaning equipment, and inspection/metrology equipment).</p>	<p>II.D.2. Controls re FN5 Entities AND unlisted fabs in Macau/D5 that produce advanced node DRAM or logic – for foreign-produced 3B993 commodities exported from Korea, Argentina, Türkiye, or India.^{xiv}</p> <ol style="list-style-type: none"> 1. A license is required to export from Korea, India, Türkiye, or Argentina 3B993 commodities “subject to the EAR” under the FN5 FDP / Advanced fab rule to FN5 entities or fabs in Macau/D5 that produce advanced node DRAM or logic. <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(2)</u> 2. No license exceptions available, except that License Exception RFF (<u>740.26</u>) might be available when XMC is involved and conditions can be satisfied. <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u> 3. The licensing policy is usually one of presumption of denial for most FN5 entities, but case-by-case for XMC if foreign availability can be demonstrated. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, and <u>Part 744, Supp. No. 4</u> 	<p>II.D.2. The one way in which a foreign-produced 3B993 commodity outside the US could be “subject to the EAR” under FN5 /Advanced Node fab FDP rule:</p> <ol style="list-style-type: none"> 1. the foreign-produced 3B993 commodity is: (a) the direct product of Cat 3 technology or software subject to EAR; (b) produced by equipment that is the direct product of such technology or software; (c) contains an foreign-produced IC or other commodity that produced by such equipment or that is the direct product of such technology or software; or (d) contains a US-origin IC (<u>734.9(e)(3)(i)</u>, <u>734.4(a)(9)</u>, <u>(734.3(a)(4))</u>; and 2. there is knowledge that (a) the foreign-produced 3B993 commodity will be incorporated into any commodity produced, purchased, or ordered by a FN5 entity or unlisted fab producing advanced node DRAM or logic; or (b) a FN5 entity or Macau/D5 fab that produces advanced node DRAM or logic is a party to the transaction involving the foreign-produced commodity (<u>734.9(e)(3)(ii)</u> and <u>734.3(a)(5)</u>).

<p>II.D.3. The following foreign-produced FN5 commodities (but not software or technology) when exported from non-A5 countries (e.g., Singapore, Taiwan, or Israel) to either (i) FN5 entities; OR (ii) unlisted fab in Macau/D5 that produces advanced node DRAM or logic:</p> <ul style="list-style-type: none"> - 3B001.a.1 (epi, include ALE) - 3B001.a.2 (MOCVD) - 3B001.a.3 (molecular beam epi) - 3B001.b (for ion implantation) - 3B001.e (wafer handling systems) - 3B001.f.2 (imprint litho) - 3B001.f.3 (litho mask making) - 3B001.f.4 (litho for device processing) - 3B001.g (masks for 3A001 ICs) - 3B001.h (masks for use with litho) - 3B001.i (imprint litho templates) - 3B001.j (EUV masks substrate blanks) - 3B002.a (test/inspection for S-parameters) - 3B002.b (for testing microwave ICs) - 3B611 (for military electronics) - 3B903 (scanning electron microscope) - 3B991 (except 3B991.b.2.a through 3B991.b.2.b masks) (broad list of equipment used in IC production, including, epi, sputtering, ion implantation, dry etch, CVD, electron beam, surface finishing, interconnection equipment, IC repair equipment, for CAD of ICs, for mask fabrication, inspection equipment, align and expose equipment, electron beam equipment, direct write equipment, equipment for IC assembly, and filters) - 3B992 (inspection equipment, wafer probing, test equipment, electron beam test, ion beam systems, and particle measuring systems) - 3B993 (node-agnostic tools moved from 3B001, including high-aspect ratio etch, dielectric depo, less-advanced DUV equipment, annealing equipment, and cleaning equipment, in addition to ion implantation, deposition, removal/cleaning equipment, and inspection/metrology equipment). 	<p>II.D.3. Controls re FN5 Entities AND unlisted fabs in Macau/D5 that produce advanced node DRAM or logic – for foreign-produced FN5 commodities exported from non-A5 countries (e.g., Singapore, Israel, Taiwan):</p> <ol style="list-style-type: none"> 1.a. A license is required to export from such countries any of the FN5 commodities to FN5 entities or Macau/D5 fabs that produce advanced node logic or DRAM by all companies except those HQ'd in or having an ultimate parent company HQ'd in Supp. No. 4 countries (e.g., JP or NL). <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(3)(i)</u> 1.b. If the exporter is HQ'd in and has an ultimate parent company HQ'd in a Supp 4 country (e.g., JP or NL), then a license is required to export only 3B993 commodities. <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(3)(ii)</u> 2. No license exceptions, except License Exception RFF (<u>740.26</u>) might be available when XMC is involved and conditions can be satisfied. <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u> 3. The licensing policy is usually one of presumption of denial for most FN5 entities, but case-by-case for XMC if foreign availability can be demonstrated. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, and <u>Part 744, Supp. No. 4</u> <p>Note: 3B001.f.6 commodities are excluded from the scope of the FN5 FDP zero de minimis rule (<u>734.4(a)(9)</u>) and the product scope of the FN5 FDP rule (<u>734.9(e)(3)(i)</u>). There is, however, a licensing requirement for foreign-produced 3B001.f.6 items in <u>744.11(a)(2)(v)(A)(3)(i)</u>. This indicates that there is a typo in either the licensing requirement or the jurisdictional provisions.</p>	<p>II.D.3. The one way in which such foreign-produced FN5 commodities outside the US could be “subject to the EAR” under FN5 / Advanced Node Fab FDP rule:</p> <ol style="list-style-type: none"> 1. the foreign-produced FN5 commodity is: (a) the direct product of Cat 3 technology or software subject to EAR; (b) produced by equipment that is the direct product of such technology or software; (c) contains an foreign-produced IC or other commodity that produced by such equipment or that is the direct product of such technology or software; or (d) contains a US-origin IC (<u>734.9(e)(3)(i)</u>, <u>734.4(a)(9)</u>, and <u>734.3(a)(4)</u>); AND 2. there is knowledge that (a) the foreign-produced commodity will be incorporated into any commodity produced, purchased, or ordered by a FN5 entity or unlisted fab producing advanced node DRAM or logic; or (b) a FN5 entity or Macau/D5 fab that produces advanced node DRAM or logic is a party to the transaction involving the foreign-produced commodity (<u>734.9(e)(3)(ii)</u> and <u>734.3(a)(5)</u>).
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COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
- 3B994 (node-agnostic ion implantation and inspection/metrology)		
<p>II.D.4. Foreign-produced FN5 commodities exported from Supp. No. 4 countries (e.g., JP or NL) to either (i) FN5 entities; OR (ii) unlisted fab in Macau/D5 that produces advanced node DRAM or logic.</p>	<p>II.D.4. Controls re FN5 Entities AND unlisted fabs in Macau/D5 that produce advanced node DRAM or logic – for foreign-produced FN5 commodities exported from Supp. No. 4 countries (e.g., NJ or NL).</p> <ol style="list-style-type: none"> 1. A license is required to export from any country if the exporter is HQ'd in Macau/D5 or has ultimate parent is in Macau/D5. <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(1)</u> 2.a. A license is not required for exports from Supp. No. 4 countries by a company headquartered in and having an ultimate parent in any other country. The license requirement is in <u>734.9(e)(3)</u>, but such exports are not within scope of one of the four referenced licensing requirement subparagraphs in <u>744.11(a)(2)(v)(A)</u>. 2.b. No license exceptions, except License Exception RFF (<u>740.26</u>) might be available when XMC is involved and conditions can be satisfied. <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u> 3. The licensing policy is usually one of presumption of denial for most FN5 entities, but case-by-case for XMC if foreign availability can be demonstrated. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, and <u>Part 744, Supp. No. 4</u> 	<p>II.D.4. The one way in which such a foreign-produced FN5 commodity outside the US could be "subject to the EAR" under FN5 FDP / Advanced Node Fab rule:</p> <ol style="list-style-type: none"> 1. the foreign-produced FN5 commodity is: (a) the direct product of Cat 3 technology or software subject to EAR; (b) produced by equipment that is the direct product of such technology or software; (c) contains an foreign-produced IC or other commodity that produced by such equipment or that is the direct product of such technology or software; or (d) contains a US-origin IC (<u>734.9(e)(3)(i)</u>, <u>734.4(a)(9)</u>, and <u>734.3(a)(4)</u>); AND 2. there is knowledge that (a) the foreign-produced commodity will be incorporated into any commodity produced, purchased, or ordered by a FN5 entity or unlisted fab producing advanced node DRAM or logic; or (b) a FN5 entity or Macau/D5 fab that produces advanced node DRAM or logic is a party to the transaction involving the foreign-produced commodity (<u>734.9(e)(3)(ii)</u> and <u>734.3(a)(5)</u>).

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>II.D.5. Foreign-produced FN5 commodities (but not software or technology) transferred within China to either (i) FN5 entities; OR (ii) unlisted fab in Macau/D5 that produces <u>advanced node DRAM or logic</u>.</p>	<p>II.D.5. Controls re FN5 Entities AND unlisted fabs in Macau/D5 that produce <u>advanced node DRAM or logic</u> – for foreign-produced FN5 commodities transferred within Macau/D5.</p> <p>1.a. A license is required to transfer such FN5 commodities to a FN5 entity or a fab in Macau/D5 that produces advanced node DRAM or logic if transferor is either (i) headquartered in the US or any other non-Supp. No. 4 country (e.g., Taiwan, Singapore, or Israel), or (ii) has an ultimate parent in the US or another non-Supp. No. 4 country. <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(4)(i)</u></p> <p>1.b. If the transferor is HQ'd in and has an ultimate parent in a Supp. No. 4 country (e.g., JP or NL), then a license is required only to transfer 3B993 commodities to FN5 fab or fab in Macau/D5 that produces advanced node DRAM or logic. <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(4)(ii)</u></p> <p>2. No license exceptions, except License Exception RFF (<u>740.26</u>) might be available when XMC is involved and conditions can be satisfied. <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u></p> <p>3. The licensing policy is usually one of presumption of denial for most FN5 entities, but case-by-case for XMC if foreign availability can be demonstrated. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, and <u>Part 744, Supp. No. 4</u></p>	<p>II.D.5. The one way in which such foreign-produced FN5 commodities outside the US could be "subject to the EAR" under FN5 FDP / Advanced Node Fab rule:</p> <p>1. The foreign-produced FN5 commodity is: (a) the direct product of Cat 3 technology or software subject to EAR; (b) produced by equipment that is the direct product of such technology or software; (c) contains an foreign-produced IC or other commodity that produced by such equipment or that is the direct product of such technology or software; or (d) contains a US-origin IC (<u>734.9(e)(3)(i)</u>, <u>734.4(a)(9)</u>, and <u>734.3(a)(4)</u>); AND</p> <p>2. there is knowledge that (a) the foreign-produced commodity will be incorporated into any commodity produced, purchased, or ordered by a FN5 entity or unlisted fab producing advanced node DRAM or logic; or (b) a FN5 entity or Macau/D5 fab that produces advanced node DRAM or logic is a party to the transaction involving the foreign-produced commodity (<u>734.9(e)(3)(ii)</u> and <u>734.3(a)(5)</u>).</p>

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>II.D.6. Foreign-produced FN5 commodities (but not software or technology) exported from abroad, reexported, or transferred to or within Macau/D5 if by a company HQ'd in Macau/D5 or with a parent in Macau/D5 and to either (i) a FN5 entity or (ii) an unlisted fab producing advanced node logic or DRAM.</p>	<p>II.D.6. Controls re FN5 Entities AND unlisted fabs in Macau/D5 that produce <u>advanced node DRAM or logic</u> – for FN5 Commodities exported from any country or transferred to or within Macau/D5 by company HQ'd in Macau/D5 or with parent in Macau/D5</p> <p>1. A license is required to export from any country, or transfer within Macau/D5, any FN5 item to any FN5 entity or fab in Macau/D5 that produced advanced node DRAM or logic. <u>734.9(e)(3)</u> and <u>744.11(a)(2)(v)(A)(4)(i)</u></p> <p>2. No license exceptions, except License Exception RFF (<u>740.26</u>) might be available when XMC is involved and conditions can be satisfied. <u>744.11(a)</u>, <u>744.16(b)</u>, and <u>740.2(a)(2)</u></p> <p>3. The licensing policy is usually one of presumption of denial for most FN5 entities, but case-by-case for XMC if foreign availability can be demonstrated. <u>744.11(a)</u>, <u>744.16(c)(1)</u>, and <u>Part 744, Supp. No. 4</u></p>	<p>II.D.6. The one way in which such foreign-produced FN5 commodities outside the US could be "subject to the EAR" under FN5 FDP / Advanced Node Fab rule:</p> <p>1. The foreign-produced FN5 commodity is: (a) the direct product of Cat 3 technology or software subject to EAR; (b) produced by equipment that is the direct product of such technology or software; (c) contains an foreign-produced IC or other commodity that produced by such equipment or that is the direct product of such technology or software; or (d) contains a US-origin IC (<u>734.9(e)(3)(i)</u>, <u>734.4(a)(9)</u>, and <u>734.3(a)(4)</u>); AND</p> <p>2. there is knowledge that (a) the foreign-produced commodity will be incorporated into any commodity produced, purchased, or ordered by a FN5 entity or unlisted fab producing advanced node DRAM or logic; or (b) a FN5 entity or Macau/D5 fab that produces advanced node DRAM or logic is a party to the transaction involving the foreign-produced commodity (<u>734.9(e)(3)(ii)</u> and <u>734.3(a)(5)</u>).</p>

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
<p>II.E SME-specific commodities, software, and technology within scope of military end user controls (i.e., those in <u>Supp. No. 2, Part 744</u>):</p> <p>Commodities:</p> <ul style="list-style-type: none"> - 3B991 - 3B992 - EAR99 (Russia/Belarus only) - 5A992 (items with encryption functionality) <p>Software:</p> <ul style="list-style-type: none"> - 3D991 (development/production/use of 3B991 or 3B992, or for use of 3B001.g or 3B001.h) - EAR99 (Russia/Belarus only) - 5D992 (software with encryption functionality) <p>Technology:</p> <ul style="list-style-type: none"> - 3E991 (development/production of 3B991 or 3B992) - EAR99 (Russia/Belarus only) 	<p>II.E. Military End User Controls</p> <p>1.a. A license is required to export, reexport, or transfer Supp. No. 2 items "subject to the EAR" if there is knowledge would be for a Burmese, Cambodian, Chinese, Nicaraguan, or Venezuelan "military end user" (<u>744.21(g)</u>) wherever located. <u>744.21(a)(1)</u></p> <p>1.b. A license is required to export any item subject to the EAR, not just Supp. No. 2 items, to a "military end user" (<u>744.21(g)</u>) in Russia or Belarus or Supp. No. 3 entity outside of Russia or Belarus. <u>744.21(a)(2)</u></p> <p>2. The only license exception available is GOV. <u>744.21(c)</u></p> <p>3. The licensing policy is one of presumption of denial. (<u>744.21(e)(1)</u>)</p>	<p>II.E. Ways in which US-origin and foreign-produced items within scope of the military end user controls in or outside or in the US could be "subject to the EAR:"</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); OR 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>). <p>(If a foreign-produced item outside the US would be subject to the EAR under the de minimis rule or a Foreign Direct Product rule, then a license would be required under the provisions associated with item.)</p>

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
II.F. Any commodity, software, or technology subject to the EAR	<p>II.F. Denied Persons Controls</p> <p>1. With respect to Denied Persons on <u>BIS website</u> and if involving items subject to the EAR, a license is required to, in essence:</p> <ul style="list-style-type: none"> a. export, reexport, or transfer items to or on behalf of DP; b. take any action that facilitates acquisition by DP of items; c. take action to acquire from DP items sent from US; d. obtain from DP in US any item to be exported; or e. engage in any transaction to service item subject to EAR possessed by DP. <u>764.3(a)(2)</u> and <u>Part 764, Supp. No. 1</u> 	<p>II.F. Ways in which US-origin and foreign-produced items outside or in the US could be "subject to the EAR:"</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign produced and outside US with more than <u>de minimis amount of controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>, but is 0% if destined to D:5 country (<u>734.4(a)(6)</u>); OR 4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u>) outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>).^{vi}
II.G. Any commodity, software, or technology subject to the EAR	<p>II.G. Unverified List Controls</p> <p>1. Exports, reexports, and transfers of items subject to the EAR "involving" entities on the Unverified List must be made in accordance with required UVL statements. <u>744.15(a)</u> and <u>Supp. No. 6, Part 744</u></p> <p>2. No license exceptions may be used. <u>740.2(a)(17)</u></p> <p>3. Licensing policy is the same as it would be if the same end user for the same end use was not on the UVL.</p>	<p>II.F. Ways in which US-origin and foreign-produced items outside or in the US could be "subject to the EAR:"</p> <ol style="list-style-type: none"> 1. US-origin, from any location (<u>734.3(a)(2)</u>); 2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>); 3. Foreign produced and outside US with more than <u>de minimis amount of controlled</u> US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>; OR 4. Foreign-produced and a type of National Security-controlled item (<u>734.9(b)(1)(i)(B)</u> or <u>734.9(b)(1)(ii)(B)</u>) outside the US, and within scope of <u>National Security FDP rule</u>, i.e., that is (a)(i) the <u>direct product</u> of US-origin NS-controlled <u>technology or software</u> (<u>734.9(b)(1)(i)(A)</u>), or (b) the <u>direct product</u> of equipment that is (<u>734.9(b)(1)(ii)(A)</u>); AND (b) destined to a country in group <u>D1 or E</u> (<u>734.9(b)(2)</u>) (<u>734.3(a)(4)</u> and <u>734.3(a)(5)</u>).^{vi}

Attachments to November 20, 2025 Kevin Wolf Testimony. These documents are only working and draft summaries and are thus not legal advice.

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WHEN SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, ARE "SUBJECT TO THE EAR"
II.H. Any commodity, software, or technology subject to the EAR	<p>II.H Specially Designated Nationals and Blocked Persons (SDNs) Export Controls</p> <p>1. A license is required to export, reexport, or transfer any item subject to the EAR when one of the identified SDNs would be a party to the transaction. 744.8(a)(1)</p> <p>2.a. No license exceptions are available unless allowed for a specific Entity List entity. 744.8(c)</p> <p>2.b. No license is required if OFAC has authorized the transaction. 744.8(a)(2) and 744.8(b)</p> <p>3. Licensing policy is presumption of denial, unless there is a different Entity List-specific policy applicable. 744.8(d)</p>	<p>II.H Ways in which US-origin and foreign-produced items outside or in the US could be "subject to the EAR:"</p> <p>1. US-origin, from any location (734.3(a)(2)); or</p> <p>2. Sent from US, regardless of origin (734.3(a)(1)).</p> <p>(If a foreign-produced item outside the US would be subject to the EAR under the de minimis rule or a Foreign Direct Product rule, then a license would be required under the provisions associated with item.)</p>

III. END USE-BASED CONTROLS (i.e., Advanced Node, SME, Supercomputer, US Person, Military End Use, and WMD controls)

COMMODITIES, SOFTWARE, OR TECHNOLOGY TO BE EXPORTED, REEXPORTED, OR TRANSFERRED OR ACTIVITIES TO BE ENGAGED IN	LICENSING REQUIREMENTS, LICENSE EXCEPTIONS OR EXCLUSIONS, AND LICENSING POLICIES	WAYS IN WHICH SUCH ITEMS, OR ACTIVITIES INVOLVING THE ITEMS, COULD BE "SUBJECT TO THE EAR" OR COULD <u>NOT</u> BE "SUBJECT TO THE EAR"
III.A. Any commodity, software, or technology subject to the EAR and specified on the CCL (i.e., other than EAR99)	<p>III.A. SME End Use Controls</p> <p>1. A license is required to export any item subject to the EAR described on the CCL with knowledge that:</p> <p>a. it "is destined" to or within Macau/D5 for the development or production of SME in Category 3B, or associated software or technology, <u>(744.23(a)(4)(i))</u>; OR</p> <p>b. (i) the item (in original form or as incorporated into a foreign-made item) is for the development or production of a foreign-made item that is SME in Category 3B, or associated software or technology, and (ii) the development/production is by an entity HQ'd in Macau/D5 or that has an ultimate parent in Macau/D5 <u>(744.23(a)(4)(ii))</u>.</p> <p>Note: The covered SME commodities are those in:</p> <ul style="list-style-type: none"> - 3B001 (except 3B001.g and .h masks) - 3B002 - 3B611 - 3B903 - 3B991 (except 3B991.b.2.a through 3B991.b.2.b masks and mask substrates) - 3B992 - 3B993 - 3B994 <p>Software:</p> <p>3D software for covered SME</p> <p>Technology:</p> <p>3E technology for covered SME</p> <p>2.a. No license exception other than limited GOV in limited cases. <u>744.23(c)</u> and <u>740.2(a)(9)(i)</u>.</p> <p>2.b. There is a TGL until <u>12/31/26</u> to overcome 744.23(a)(4) licensing requirements for 3B991, 3B992, 3B001.c.4, 3B993.b.1, c.2, c.3, d.4, f.2, f.3, o.2, q.1, q.2, 3B994, and associated technology and software. Supp. No. 1, <u>Part 736(d)(1)(i)</u>. TGL can only be used if developing or producing commodities at the direction of A5/A6 or U.S. company not HQ'd in Macau/D5 or majority owned by a</p>	<p>III.A. Ways in which US-origin and foreign-produced items outside or in the US could be "subject to the EAR:"</p> <p>1. US-origin, from any location <u>(734.3(a)(2))</u>; or</p> <p>2. Sent from US, regardless of origin <u>(734.3(a)(1))</u>.</p> <p>(If a foreign-produced item outside the US would be subject to the EAR under the de minimis rule or a Foreign Direct Product rule, then a license would be required under the provisions associated with item.)</p>

	<p>Macau/D5 company. Supp. No. 1, Part <u>736(d)(1)(ii)</u>.</p> <p>3. Presumption of denial licensing policy, unless end user HQ'd in US or A5 country and not majority owned by a Macau/D5 company. <u>744.23(d)(1)</u> and <u>(d)(2)</u>. Case-by-case if foreign availability. <u>744.23(d)(3)(ii)</u></p>	
III.B. Any commodity, software, or technology subject to the EAR	<p>III.B. Advanced Node IC End Use Controls</p> <p>1.a. A license is required to export, reexport, or transfer to or within any country any item subject to the EAR (including EAR99 items) with knowledge item will be for use in developing or producing an IC at a facility in Macau/D5 where production of "advanced-node ICs" (<u>772.1</u>) occurs. <u>744.23(a)(2)(i)</u> (Requirement doesn't apply if to a FNS fab. <u>744.23(a)(2)(iv)</u>).</p> <p>1.b. If the item is a 3B, 3C, 3D, or 3E item and there is knowledge it will be used in the development or production of ICs destined to a facility in Macau/D5 where IC production occurs, but there is not knowledge about whether "advanced node" (<u>772.1</u>) ICs are produced, then a license is required. <u>744.23(a)(2)(ii)</u> (Requirement doesn't apply if to a FNS fab. <u>744.23(a)(2)(iv)</u>).</p> <p>Note: The term "production" does not apply to back-end steps such as assembly, test, or packaging that do not alter the integrated circuit technology level. <u>744.23(a)(5)</u>.</p> <p>Note: "Advanced Node ICs" are (i) non-planar logic or 16/14 nm technology node or better; (ii) NAND with 128 layers or more, and (iii) DRAM with a memory cell area less than $0.0026 \mu\text{m}^2$, a memory density greater than 0.20 gigabits per square millimeter; or more than 3000 TSVs per die.</p> <p>1.c. If the item is ECAD or TCAD software or technology, a license is required if it will be used in the design of "advanced node ICs" (<u>772.1</u>) that will be produced in Macau/D5. <u>744.23(a)(2)(iii)</u>.</p> <p>2. No license exception other than limited GOV in limited cases. <u>744.23(c)</u> and <u>740.2(a)(9)(i)</u>.</p> <p>3. Presumption of denial licensing policy, unless end user HQ'd in US or A5 country. <u>744.23(d)(1)</u> and <u>(d)(2)</u>. Case-by-case if foreign availability. <u>744.23(d)(3)(ii)</u></p>	<p>III.B. Ways in which US-origin and foreign-produced items outside or in the US could be "subject to the EAR":^{xv}</p> <p>1. US-origin, from any location (<u>734.3(a)(2)</u>); or</p> <p>2. Sent from US, regardless of origin (<u>734.3(a)(1)</u>).</p> <p>(If a foreign-produced item outside the US would be subject to the EAR under the de minimis rule or a Foreign Direct Product rule, then a license would be required under the provisions associated with item.)</p>
III.C. "Controlled activities" of a US person involving commodities, software, and technology NOT subject to the EAR	<p>III.C. US Person Advanced Node IC Production End Use Control</p> <p>1.a. A US Person requires a license if it (i) knows that an export from abroad, reexport, or transfer to or within Macau/D5 of an item NOT subject to the EAR will be used in the development or production of ICs at a facility HQ'd or with ultimate parent in Macau/D5 where production of "advanced node ICs" (<u>772.1</u>) and (ii) engages in controlled activities with respect to the item. <u>744.6(c)(2)(i)</u></p> <p>1.b. If the item not subject to the EAR is a 3B, 3C, 3D, or 3E item and the US person knows it will be used in the development or</p>	<p>III.C. For a commodity, software, or technology to NOT be subject to the EAR, it must be:</p> <p>1. foreign-origin;</p> <p>2. outside the US;</p> <p>3. not contain more than a de minimis amount of</p>

	<p>production of ICs at such a facility but there is not knowledge about whether the facility products “advanced node ICs,” then a license is required for the US person to engage in controlled activities with respect to the item. <u>744.6(c)(2)(ii)</u></p> <p>1.c The “controlled activities” are (i) authorizing the shipment, transmittal, or transfer of the item; (ii) conducting the delivery, by shipment, transmittal, or transfer of the item; or (iii) servicing, including maintaining, repairing, overhauling, or refurbishing the item. <u>744.6(c)(3)(i)</u></p> <p>Note: “Advanced Node ICs” are (i) non-planar logic or 16/14 nm technology node or better; (ii) NAND with 128 layers or more, and (iii) DRAM with a memory cell area less than $0.0026 \mu\text{m}^2$, a memory density greater than 0.20 gigabits per square millimeter; or more than 3000 TSVs per die.</p> <p>2.a. Excluded from the controls are (i) US person clerical/administrative activities; (ii) published technology/software; and (iii) US law enforcement activities. <u>744.6(d)(1)</u></p> <p>2.b. Excluded from the controls are those related to backend activities. <u>744.6(d)(3)</u></p> <p>2.c. Excluded from the controls are those by natural US persons working for a US, A5, or A6 company that is not majority owned by an entity HQ’d in Macau/D5. <u>744.6(d)(4)(i)</u></p> <p>3. Licensing policy is presumptive denial if recipient of US person services is HQ’d in Macau/D5 or has an ultimate parent in Macau/D5. <u>744.6(e)(3)(i)</u> Case-by-case is possible if foreign availability and in all other cases, such as recipient being HQ’d in A5 country.</p> <p>4. No license exceptions available <u>744.6(d)</u></p>	<p>controlled US-origin content; AND</p> <p>4. not be within the scope of any of the FDP rules described in 734.9.</p>
III.D. “Controlled activities” of a US person involving commodities, software, and technology NOT subject to the EAR	<p>III.D. US Person Advanced SME Production End Use Controls</p> <p>1.a. If a US Person (i) knows that an export from abroad, reexport, or transfer to or within Macau/D5 of an item NOT subject to the EAR meeting the parameters of one of the covered advanced SME items, then (ii) a license is required to engage in “controlled activities” with respect to the SME item. <u>744.6(c)(2)(iii)</u></p> <p>1.b. The “controlled activities” are (i) authorizing the shipment, transmittal, or transfer of the item; (ii) conducting the delivery, by shipment, transmittal, or transfer of the item; or (iii) servicing, including maintaining, repairing, overhauling, or refurbishing the item. <u>744.6(c)(3)(i)</u></p> <p>1.c. The covered advanced SME items are:</p> <p>Commodities:</p>	<p>III.D. For a commodity, software, or technology to NOT be subject to the EAR, it must:</p> <p>1. be foreign-origin;</p> <p>2. be outside the US;</p> <p>3. not contain more than a <u>de minimis amount</u> of controlled US-origin content (<u>734.3(a)(3)</u>), which is usually 25% (<u>734.4(d)</u>); AND</p> <p>4. not within the scope of one of the Foreign Direct Product Rules in <u>734.9</u>.</p>

<ul style="list-style-type: none">- 3B001.a.4 (epi for Si or SiGe)- 3B001.c (dry etch)- 3B001.d (deposition)- 3B001.f.1 (litho)- 3B001.f.5 (imprint litho)- 3B001.f.6 (Commodities not specified by 3B001.f.1, designed or modified to perform all of the following in or with deep-ultraviolet immersion photolithography equipment)- 3B001.k (ion beam depo for EUV masks)- 3B001.l (EUV pellicles)- 3B001.m (for manufacturing EUV pellicles)- 3B001.n (for creating EUV photoresists)- 3B001.p.2 (wet cleaning)- 3B004.p.4 (cleaning using CO2)- 3B001.r (for EUV pattern shaping)- 3B002.c (inspection for EUV mask blanks/patterned masks) <p>Software:</p> <ul style="list-style-type: none">- 3D992.a (for development/production of 3B001.a.4, c, d, f.1, f.5, f.6, k to n, p.2, p.4, r, or 3B002.c)- 3D992.b (ECAD for integration of multiple dies into multichip ICs) <p>Technology:</p> <ul style="list-style-type: none">- 3E992 (development/production of 3B001.a.4, c, d, f.1, f.5, f.6, k to n, p.2, p.4, r; and 3B002.c.) <p>2.a. Licensing requirement does not apply to servicing activities unless at a facility where production of "advanced-node ICs" occurs. <u>744.6(d)(5)</u></p> <p>2.b. Excluded from the controls are (i) US person clerical/administrative activities; (ii) published technology/software; and (iii) US law enforcement activities. <u>744.6(d)(1)</u></p> <p>2.c. Excluded from the controls are those by natural US persons working for a US, A5, or A6 company that is not majority owned by an entity HQ'd in Macau/D5. <u>744.6(d)(4)(i)</u></p> <p>3. Licensing policy is presumptive denial if recipient of US person services is HQ'd in Macau/D5 or has an ultimate parent in Macau/D5. <u>744.6(e)(3)(i)</u> Case-by-case is possible if foreign availability and in all other cases, such as recipient being HQ'd in A5 country.</p> <p>4. No license exceptions available <u>744.6(d)</u></p>	
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III.E. "Support" activities of a US person involving commodities, software, and technology NOT subject to the EAR	III.E. US Person Support of WMD Controls <p>1.a. A license is required for a US person to "support" in most countries the development, production, or use, broadly defined, (a) nuclear explosive devices (744.6(b)(1)); (b) missiles, which include UAVs (744.6(b)(2)); (c) chemical/biological weapons (744.6(b)(3)); plants to make chemical weapons precursors (744.6(b)(4)); or military-intelligence end uses or end users (744.6(a)(5)).</p> <p>1.b. "Support" includes shipping, transferring, facilitating shipments or transfers, or performing any contract or service that may assist or benefit such end uses or end users. 744.6(b)(6)</p> <p>2. No license exceptions. 744.6(d)</p> <p>3. Generally, a presumptive denial policy. 744.6(e)</p>	III.E. For a commodity, software, or technology to NOT be subject to the EAR, it must: <ol style="list-style-type: none"> 1. be foreign-origin; 2. be outside the US; 3. not contain more than a <u>de minimis amount</u> of <u>controlled</u> US-origin content (734.3(a)(3)), which is usually 25% (734.4(d)); AND 4. not within the scope of one of the Foreign Direct Product Rules in 734.9.
III.F. All commodities, software, and technology subject to the EAR	III.F. WMD Catch-All Controls <p>1. A license is required for a US or a foreign person to export, reexport, or transfer any item subject to the EAR to most countries if there is knowledge that the item will be used, directly or indirectly, in the development, production, or use, broadly defined, of (a) nuclear-related items (744.2); (b) missiles, rockets, or UAVs (744.3); (c) chemical/biological weapons (744.4); or maritime nuclear propulsion (744.5).</p> <p>2. License exceptions not available.</p> <p>3. Licensing policies are generally denial policies if they would contribute to the end use of concern.</p>	III.F. Ways in which an item would be "subject to the EAR" for purposes of the WMD catch-all controls: <ol style="list-style-type: none"> 1. US-origin, from any location (734.3(a)(2)); or 2. Sent from US, regardless of origin (734.3(a)(1)). <p>(If a foreign-produced item outside the US would be subject to the EAR under the de minimis rule or a Foreign Direct Product rule, then a license would be required under the provisions associated with item.)^{xvi}</p>
III.G. All commodities, software, and technology subject to the EAR	III.G. Prohibition on Acting with Knowledge of a Violation <p>764.2(e) (General Prohibition 10, in essence) prohibits US and foreign persons from engaging in many types of activities, including servicing, any item that has been, is being, or is about to be exported, reexported, or transferred, or otherwise subject to the EAR, with knowledge that an EAR violation has occurred, is about to occur, or is intended to occur.</p>	III.G. Ways in which an item would be "subject to the EAR" for purposes of the 764.2(e) (General Prohibition 10): <ol style="list-style-type: none"> 1. US-origin, from any location (734.3(a)(2)); 2. Sent from US, regardless of origin (734.3(a)(1)); 3. Foreign produced and outside US with more than a <u>de minimis amount</u> of <u>controlled</u> US-origin content (734.3(a)(3)), which is usually 25% (734.4(d)); OR 4. Foreign produced, outside the US, and within the scope of one of the Foreign Direct Product rules in 734.9.

**Licensing Requirements for Foreign-Produced Commodities Outside the US That Are Specific to
(i) Footnote 5 Fabs AND (ii) Unlisted Fabs in Macau/D5 That Produce “Advanced Node” Logic or DRAM**

Relevant ECCNs: The ECCNs of foreign-produced end-items (and specially designed parts and components therefor) outside the US within scope of this FN5/Advanced Fab FDP rule are those in 3B001 (except 3B001.a.4, c, d, f.1, f.5, f.6, g, h, k to n, p.2, p.4, r), 3B002 (except 3B002.c), 3B903, 3B991 (except 3B991.b.2.a through 3B991.b.2.b), 3B992, 3B993, and 3B994 ([734.9\(e\)\(3\)\(i\)](#)). **Product Scope:** Such foreign-made commodities are within the FN5/Advanced Fab FDP rule’s Product Scope if they: (i) are the direct product of certain Category 3 technology or software subject to the EAR ([734.9\(e\)\(3\)\(i\)\(A\)](#)); (ii) are produced, including tested, by any equipment that is the direct product of such technology or software ([734.9\(e\)\(3\)\(i\)\(B\)\(1\)](#)); (iii) contain a commodity produced by equipment that is the direct product of such technology or software ([734.9\(e\)\(3\)\(i\)\(B\)\(2\)](#)); **or** (iv) contain a US-origin or a foreign-origin IC of any type ([734.9\(e\)\(3\)\(i\)\(B\)\(2\)](#), [734.4\(a\)\(9\)](#), [Supp. No. 3, Part 732, para. 26](#)). **End-User Scope:** Such foreign-made commodities are within the FN5/Advanced Fab’s FDP rule’s End-User Scope if (i) they will be incorporated into any commodity produced, purchased, or ordered by a FN5 entity or a facility in Macau/D5 that produces “advanced node” DRAM or logic ([734.9\(e\)\(3\)\(ii\)\(A\)](#)); or (ii) any such entity would be a party to the transaction ([734.9\(e\)\(3\)\(ii\)\(B\)](#)).

From / Transfer Within By Company HQ or Ultimate Parent	From Korea, India, Argentina, or Türkiye to FN5 Entity or Advanced Fab	From <u>non-A5</u> countries (e.g., Singapore, Israel or Taiwan) to FN5 Entity or Advanced Fab	From <u>Supp. No. 4</u> countries (e.g., JP, NL, or DE) to FN5 Entity or Advanced Fab	Transfer within China to FN5 Entity or Advanced Fab
HQ’d in US or that has ultimate parent company in US – EAR	License required for only 3B993. 744.11(a)(2)(v)(A)(2)	License required for all FN5 / Advanced Fab ECCNs. 744.11(a)(2)(v)(A)(3)(i)	No EAR license required. (Requirement is in 734.9(e)(3) , but not within scope of one of the four referenced licensing requirement subparagraphs in 744.11(a)(2)(v)(A))	License required for all FN5 / Advanced Fab ECCNs 744.11(a)(2)(v)(A)(4)(i)
HQ’d in, or with ultimate parent in, JP, NL, EU, or other <u>Supp 4</u> countries – EAR	License required for only 3B993. 744.11(a)(2)(v)(A)(2)	License required for only 3B993. 744.11(a)(2)(v)(A)(3)(ii)	No EAR license required. (Requirement is in 734.9(e)(3) , but not within scope of one of the four referenced licensing requirement subparagraphs in 744.11(a)(2)(v)(A))	License required for only 3B993. 744.11(a)(2)(v)(A)(4)(ii)
HQ’d in, or with ultimate parent in, Taiwan, Singapore, Israel, Korea, India or other non-<u>Supp</u> 4 countries – EAR	License required for only 3B993. 744.11(a)(2)(v)(A)(2)	License required for all FN5 / Advanced Fab ECCNs. 744.11(a)(2)(v)(A)(3)(i)	No EAR license required. (Requirement is in 734.9(e)(3) , but not within scope of one of the four referenced licensing requirement subparagraphs in 744.11(a)(2)(v)(A))	License required for all FN5 / Advanced Fab ECCNs 744.11(a)(2)(v)(A)(4)(i)
Macau/D5 HQ’d or ultimate parent in Macau/D5 – EAR	License required for all FN5 / Advanced Fab ECCNs 744.11(a)(2)(v)(A)(1)	License required for all FN5 / Advanced Fab ECCNs. 744.11(a)(2)(v)(A)(1)	License required for all FN5 / Advanced Fab ECCNs 744.11(a)(2)(v)(A)(1)	License required for all FN5 / Advanced Fab ECCNs 744.11(a)(2)(v)(A)(4)(i)
Any company – JP and NL controls	No JP, NL, or other country controls.	No JP, NL, or other country controls.	Japanese requirements apply. Dutch requirements apply.	No JP, NL, or other country controls.

Note: 3B001.f.6 commodities are excluded from the scope of the FN5 FDP zero de minimis rule ([734.4\(a\)\(9\)](#)) and the product scope of the FN5 FDP rule ([734.9\(e\)\(3\)\(i\)](#)). There is, however, a licensing requirement for foreign-produced 3B001.f.6 items in [744.11\(a\)\(2\)\(v\)\(A\)\(3\)\(i\)](#). This indicates that there is a typo in either the licensing requirement or the jurisdictional provisions.

Licensing Requirements for (i) US-Origin Items Reexported or Transferred from Outside US (734.3(a)(2)), (ii) US- or Foreign-Produced Items Exported From US (734.3(a)(1)), and (iii) US Person Activities (744.6(c)(3)) Involving FN5 Entities or Entities in Macau/D5 Producing Advanced Node Logic, NAND, or DRAM (772.1)

Type of Item at Issue	Circumstance When FN5 Entity would be a purchaser, end user, intermediate consignee, or ultimate consignee	“Destined” to any destination if with knowledge item will be used in development or production of ICs at a Macau/D5 fab that produces <u>“advanced node ICs”</u>	“Destined” to any destination with knowledge will be used in development or production of ICs in Macau/D5 but unknown if fab produces <u>“advanced node ICs”</u>
Any item exported from US or reexported or transferred outside US that is US origin by any entity	License required. <u>744.11(a)</u> <u>744.16(a)</u>	License required per <u>744.23(a)(2)(i)</u> unless fab is a FN5 fab (<u>744.23(a)(2)(iv)</u>) Note: “Production,” for this control only, does not include backend steps, such as done at an OSAT. <u>744.23(a)(5)</u> .	License required if a 3B, 3C, 3D, or 3E item per <u>744.23(a)(2)(ii)</u> unless fab is a FN5 fab (<u>744.23(a)(2)(iv)</u>) Note: “Production,” for this control only, does not include backend steps, such as done at an OSAT. <u>744.23(a)(5)</u> .
Any item NOT subject to EAR to or within Macau/D5 w/n 3B001.a.4, c, d, f.1, f.5, f.6, k to n, p.2, p.4, r, 3B002.c, 3D992, or 3E992 authorized for shipment, shipped, or serviced by a US Person (<u>744.6(c)(3)</u>)	License required, but exception for servicing at fabs that do not produce “advanced node ICs.” <u>744.6(c)(2)(iii)</u> <u>744.6(d)(5)</u>	License required. <u>744.6(c)(2)(iii)</u>	License required. <u>744.6(c)(2)(iii)</u>
Any foreign-origin item NOT subject to the EAR OTHER than those described above and authorized for shipment, shipped, or serviced by a US Person (<u>744.6(c)(3)</u>)	Otherwise, no license required UNLESS knowledge FN5 fab is producing <u>“advanced node ICs”</u> . <u>744.6(c)(2)(i)</u> Note: If foreign-produced 3B, 3C, 3D, or 3E items at issue, then US person must determine if fab is producing advanced node ICs before acting. <u>744.6(c)(2)(ii)</u> . Unlike end-use controls, US person controls do not include a FN5 carve-out if producing advanced node ICs. Note: “Production,” for this control only, does not include backend steps, such as done by an OSAT. <u>744.6(d)(3)</u>	License required. <u>744.6(c)(2)(i)</u> Note: Unlike end-use controls, US person controls do not include a FN5 carve-out if producing advanced node ICs. Note: “Production,” for this control only, does not include backend steps, such as done by an OSAT. <u>744.6(d)(3)</u>	License required, but only if a 3B, 3C, 3D, or 3E item. <u>744.6(c)(2)(ii)</u> Note: Unlike end-use controls, US person controls do not include a FN5 carve-out if producing advanced node ICs. Note: “Production,” for this control only, does not include backend steps, such as done by an OSAT. <u>744.6(d)(3)</u>
ECAD or TCAD software from US, US origin, or otherwise subject to EAR to any destination if known will be used in the design of advanced node NAND, DRAM, or logic to be produced in Macau/D5	License required. <u>744.11(a)</u> <u>744.16(a)</u>	License required. <u>744.23(a)(2)(iii)</u>	License required. <u>744.23(a)(2)(iii)</u>

Attachments to November 20, 2025 Kevin Wolf Testimony. These documents are only working and draft summaries and are thus not legal advice.

Licensing Requirements for Specific fabs that are Either FN5 fabs or Known to be Producing Advanced Node ICs

FN5 Entity List Entities <u>Supp. No. 4, Part 744</u>	(i) Reexport or transfer of foreign-origin items subject to EAR under FN5 / Advanced Fab FDP rule; (ii) export of items from the US; or (iii) reexport or transfer of US-origin items or otherwise subject to EAR when FN5 entity would be party to the transaction <u>744.11(a)(2)(v)(B)</u> <u>744.16(c)(1)</u> <u>Supp. No. 4, Part 744</u>	Export, reexport, or transfer of 3B, 3C, 3D, or 3E items subject to EAR and destined for use in producing ICs at fab and you do not know whether the fab produces advanced node ICs <u>744.23(a)(2)(ii)</u>	Export, reexport, or transfer of any item subject to the EAR and destined for use in producing ICs at fab where production of advanced node ICs occurs <u>744.23(a)(2)(i)</u>	Provision of US Person <u>support</u> involving 3B, 3C, 3D, or 3E items not subject to EAR <u>744.6(c)(2)(ii)</u>	Provision of US Person <u>support</u> involving any items not subject to EAR destined for use in producing ICs at a fab <u>744.6(c)(2)(i)</u>	Reason BIS stated in the Preamble for entities' Footnote 5 status:
Chinese Academy of Sciences Institute of Microelectronics (CAS IME)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	"for its support of China's "advanced-node ICs" and military modernization efforts, including the development or production of "advanced-node ICs" for military end use and collaboration with parties on the Entity List." Page 96833.
Fujian Jinhua Integrated Circuit Company, Ltd (JHICC)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834
Northern Integrated Circuit Technology Innovation Center (Beijing) Co., Ltd., (STIC BJ)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	"have acquired or attempted to acquire U.S. tools or components, which risk supporting the production of "advanced-node ICs" at facilities of entities that are on the Entity List." Page 96833.

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PXW Semiconductor Manufactory Co., Ltd (Peng Chip)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834
Semiconductor Manufacturing International (Beijing) Corporation (SMIC Beijing)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834
Semiconductor Manufacturing South China Corporation (SMSC)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required.	License required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834
Shanghai Integrated Circuit Equipment & Materials Industry Innovation Center Co., Ltd (CICEM)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834
Shanghai Integrated Circuit Research and Development Center (ICRD)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	they "aid in the development or production of ICs for military end use and are involved in the development or production of "advanced-node ICs" page 96832.

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Si'En Qingdao Co. Ltd. (Si'EN)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	"pose a significant risk of contributing to the efforts of Huawei Technologies Co., Ltd., a party on the Entity List, to support China's government's goal of indigenous production of "advanced node ICs" to support its military modernization." Page 96832.
SMIC Northern Integrated Circuit Manufacturing (Beijing) Co., Ltd. (SMIC North)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834
SMIC Advanced Technology R&D (Shanghai) Corporation (SMIC New Technology)	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	"have acquired or attempted to acquire U.S. tools or components, which risk supporting the production of "advanced-node ICs" at facilities of entities that are on the Entity List." Page 96833.
Semiconductor Manufacturing International Corporation (SMIC Shanghai)	License required. Presumption of denial for all items to include items described in ECCN 3B001.a.4, .c, .d, f.1.b.2, .k to .p; 3B002.c, 3B993, or 3B994. Case-by-case for items designed for production of 200mm wafers destined to a 200mm wafer production facility	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	to restrict ability to "obtain foreign-produced items that could support the production of "advanced-node ICs." Page 96834

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Shenzhen Penginxu Technology Co. (PST)	License required. Presumption of denial except case-by-case for items not described in ECCN 3B001.a.4, .c, .d, f.1.b.2, .k to .p; 3B002.c, 3B993, or 3B994	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	"pose a significant risk of contributing to the efforts of Huawei Technologies Co., Ltd., a party on the Entity List, to support China's government's goal of indigenous production of "advanced node ICs" to support its military modernization." Page 96832.
SwaySure Technology Co., Ltd. (SWX)	License required. Presumption of denial except case-by-case for items not described in ECCN 3B001.a.4, .c, .d, f.1.b.2, .k to .p; 3B002.c, 3B993, or 3B994	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	"pose a significant risk of contributing to the efforts of Huawei Technologies Co., Ltd., a party on the Entity List, to support China's government's goal of indigenous production of "advanced node ICs" to support its military modernization." Page 96832.
Zhangjiang Laboratory	License required. Presumption of Denial	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	they "aid in the development or production of ICs for military end use and are involved in the development or production of "advanced-node ICs" Page 96832.
Wuhan Xinxin Semiconductor Manufacturing Company Ltd. (XMC)	License required. Presumption of Denial, but case-by-case if foreign availability AND possible available of License Exception RFF (<u>740.26</u>) if conditions and reporting can be satisfied	N/A per <u>744.23(a)(2)(iv)</u>	N/A per <u>744.23(a)(2)(iv)</u>	License required, unless US person knows fab is not producing advanced node ICs.	If US person has knowledge that the item will be used in the development production of ICs at a fab producing advanced node ICs, then a license is required.	it "poses a significant risk of becoming involved in the development or production of "advanced-node ICs." Page 96832

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Non-FN5 Fabs that Produce Advanced Node DRAM, Logic, or NAND						
	See column title above	See column title above	See column title above	See column title above	See column title above	
CXMT, Fab 1, Hefei	N/A	N/A	License required.	N/A	License required.	
CXJD, Fabs C1A and C1B, Beijing	N/A	N/A	License requirement began 1/31/25.	N/A	License requirement began 1/31/25.	
CXXQ, Fabs A2A and A2B, Hefei	N/A	N/A	License requirement began 1/31/25.	N/A	License requirement began 1/31/25.	
YMTC	Yes, but only for US origin items, items sent from the US, or subject to the EAR for reasons other than the FN5 FDP rule. Presumption of denial. <u>744.16(c)(1)</u> <u>Supp. No. 4, Part 744</u>	N/A	License required.	N/A	License required.	
Any other fabs to list that produce advanced node DRAM, logic, or NAND (other than the 4 MNC fabs) that are not FN5 entities?	N/A	N/A	License required.	N/A	License required.	

Licensing Requirements for Commodities (Including Specially Designed Parts/Components Therefor) within Scope of ECCNs 3B001.a.4, c, d, f.1, f.5, f.6, k to n, p.2, p.4, r, or 3B002.c (SME FDP Rule) (734.9(k)(1))

Action	Export from US or US origin reexport or transfer from any country	Reexport/export from abroad, or transfer within Macau/D5, of foreign-origin commodity (i) direct product of Cat 3 technology/software; (ii) produced with equipment that is direct product of such technology/software; (iii) containing a commodity produced from such equipment; or (iv) containing a US- or foreign-origin IC
By Company IN a Country, Depending on its HQ	Export from US or US origin reexport or transfer from any country	Reexport/export from abroad, or transfer within Macau/D5, of foreign-origin commodity (i) direct product of Cat 3 technology/software; (ii) produced with equipment that is direct product of such technology/software; (iii) containing a commodity produced from such equipment; or (iv) containing a US- or foreign-origin IC
By company in US and not HQ'd in Macau/D5	License required if destined to or w/n Macau/D:5. Jurisdiction -- <u>734.3(a)(2)</u> and <u>734.3(a)(1)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Policy -- <u>742.4(b)(2)</u> and <u>744.23(d)</u> (depends on end user and foreign availability)	License required if destined to or w/n Macau/D:5. Jurisdiction -- <u>734.9(k)(1)</u> and <u>734.4(a)(8)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Policy -- <u>742.4(b)(2)</u> and <u>744.23(d)</u> (depends on end user and foreign availability)
By company in Supp 4 country (e.g., JP or NL) and not HQ'd in Macau/D5	License required if destined to or w/n Macau/D:5 Jurisdiction -- <u>734.3(a)(2)</u> and <u>734.3(a)(1)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Policy -- <u>742.4(b)(2)</u> and <u>744.23(d)</u> (depends on end user and foreign availability)	No license required per licensing exclusion -- <u>742.4(a)(4)(ii)(B)</u> Jurisdiction -- <u>734.9(k)(1)</u> and <u>734.4(a)(8)</u>
By company outside Supp. 4 countries and US (e.g., in Korea), and not HQ'd in Macau/D5	License required if destined to or w/n Macau/D:5. Jurisdiction -- <u>734.3(a)(2)</u> and <u>734.3(a)(1)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Policy -- <u>742.4(b)(2)</u> and <u>744.23(d)</u> (depends on end user and foreign availability)	License required if destined to or w/n Macau/D:5 unless country adopts equivalent controls. Jurisdiction -- <u>734.9(k)(1)</u> and <u>734.4(a)(8)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Potential exclusion if country adopts equivalent controls -- <u>742.4(a)(4)(ii)(C)</u>
By company HQ'd in Macau/D5	License required if destined to or w/n Macau/D:5. Jurisdiction -- <u>734.3(a)(2)</u> and <u>734.3(a)(1)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Policy -- <u>742.4(b)(2)</u> and <u>744.23(d)</u> (depends on end user and foreign availability)	License required if destined to or w/n Macau/D:5 Jurisdiction -- <u>734.9(k)(1)</u> and <u>734.4(a)(8)</u> Requirement -- <u>742.4(a)(4)(i)</u> and <u>742.6(a)(6)(1)</u> Policy -- <u>742.4(b)(2)</u> and <u>744.23(d)</u> (depends on end user and foreign availability)

License Requirements for 3B001.c.1.a, 3B001.c.1.c, 3B001.q, 3B903, 3B904 Worldwide (Wassenaar Minus One Controls)

Action	Exports from US or reexports or transfers of US-origin items or foreign-origin items located in the US	Reexports/exports from abroad of foreign-origin items that are the direct product of US-origin NS-controlled technology or software.
By company in location		
All companies in all countries	<p>License required worldwide unless to <u>country that has imposed equivalent controls</u>.</p> <p>Jurisdiction -- <u>734.3(a)(2)</u> <u>734.3(a)(1)</u></p> <p>Requirement -- <u>742.4(a)(5)(i)</u> <u>742.6(a)(10)(i)</u></p> <p>License Exception IEC -- <u>740.24</u></p> <p>Policy -- <u>742.4(b)(10)</u> <u>742.6(b)(11)</u></p>	<p>License required worldwide unless to <u>country that has imposed equivalent controls</u>.</p> <p>Jurisdiction -- <u>734.9(b)(1)</u> (NS FDP rule requires careful analysis) <u>734.3(a)(3)</u> (de minimis rule requires careful analysis)</p> <p>Requirement -- <u>742.4(a)(5)(i)</u> <u>742.6(a)(10)(i)</u></p> <p>License Exception IEC -- <u>740.24</u></p> <p>Policy -- <u>742.4(b)(10)</u> <u>742.6(b)(11)</u></p>

ⁱ This chart does not describe licensing requirements and other issues involving exports, exports from abroad, reexports, or transfers to or within Cuba, Iran, North Korea, Syria, Russia, Belarus, or occupied regions of Crimea.

ⁱⁱ Reminder: No final licensing or license policy decision can be made until after the end-user and end-use controls are also reviewed to determine if they impose additional controls on the export, reexport, or transfer of the item, or the provision of a US person service regarding the item.

ⁱⁱⁱ “Commodities” refers to all commodities, such as equipment, end-items, parts, components, accessories, and attachments. Most ECCNs have a catch-all control for all specially designed components, but any final answers as to which specific commodities are within the scope of the ECCN require a review of the specific ECCN subparagraph and the heading. The point of this note is to be sure not to limit the analyses only to end-item equipment.

^{iv} 3D001 and 3E001 apply to software and technology for development/production of 3B001.f.6 items from their scopes. However, 3D992 and 3E992 include software and technology for development/production of 3B001.f.6 within their scopes. The 3D001 and 3E001 controls are probably typos because 3B001.f.6 is controlled only for Macau/D5 per 742.4(a)(4)/742.6(a)(6).

^v Software for the development/production of excluded 3B001 or 3B002 items is in 3D992, which is limited to Macau/D5 per 742.4(a)(4) and 742.6(a)(6)(i). Software for development/production of excluded 3B903 or 3B904 items is in 3D901 Wassenaar Minus One controls per 742.4(a)(5) and 742.6(a)(10). Software for development/production/use of excluded 3B991 or 3B992 is in 3D991 and AT-only. Software for development/production of excluded 3B993 or 3B994 items are controlled in 3D993 or 3D994 and limited to 742.6(a)(11) FN5 controls.

^{vi} Technology for development/production of excluded 3B001 and 3B002 items is controlled in 3E992 for Macau/D5 per 742.4(a)(4) and 742.6(a)(6)(i). Technology for development/production of excluded 3B903 or 3B904 items is in Wassenaar Minus One controls 742.4(a)(5) and 742.6(a)(10). Technology for development/production/use excluded 3B991 and 3B992 items is in 3E991 and controlled in 3E991 for AT-only reasons. Technology for development/production of excluded 3B993 and 3B994 items are in 3E993 and 3E994 and limited to 742.6(a)(11) FN5 controls.

^{vii} Software for the development/production of such legacy NS2 and RS2 3B001 and 3B002 commodities is controlled for NS1 (not NS2) reasons in 3D001. Software for the “use” of legacy NS2 and RS2 3B001.a. to f, and 3B002 equipment is controlled in 3D002 for NS1 reasons.

^{viii} There is an RS2 3E001 control for a “3B003” item that does not exist. “3B003” appears to be a typo in the CCL.

^{ix} The USG’s assumption is that Supp. No. 4 countries Japan and the Netherlands will impose their own controls.

^x Most FDP rules refer to “items,” and thus could apply to foreign-origin technology and software. The SME FDP rules, however, only apply to foreign-origin commodities.

^{xi} The export, reexport, and transfer of items subject to the EAR (other than if EUV related), and the provision of US person services, to the four multinational fabs in China – Intel Dalian, TSMC Nanjing, SK hynix Wuxi, and Samsung Xi’an – will almost certainly be within the scope of a Validated End User authorization or follow-on authorizations. Compliance requirements associated with such shipments need to be addressed separately.

^{xii} Unlike the FN5 FDP controls, the controls applicable to items subject to the EAR for legacy reasons apply to transfers with Macau/D5, not just reexports.

^{xiii} Unlike FN5 licensing obligations for foreign-produced items subject to EAR under FN5 FDP rule, this control applies to all commodities, software, and technology subject to the EAR.

^{xiv} The Korea- and India-specific license requirements would likely go away if the country at issue imposes its own controls on FN5 FDP items for the same FN5 end users.

^{xv} There is not an FDP rule associated with exports to facilities that produced advanced node ICs. See 734.9. The “advanced computing” FDP rule only applies if the foreign-produced item is (i) 3A090, 3E001 (for 3A090), 4A090, or 4E001 (for 4A090) of the CCL; or (ii) an IC or other item in 3A001.z, 4A003.z, 4A004.z, 4A005.z, 5A002.z, 5A004.z, or 5A992.z. 734.9(h)(1)(ii)(B)

Attachments to November 20, 2025 Kevin Wolf Testimony. These documents are only working and draft summaries and are thus not legal advice.

^{xvi} The de minimis rule (per the De Minimis Guidelines) and General Prohibition 2 limit their scope to situations where the foreign-produced item would require a license if shipped from the US under the provisions of EAR Part 738, not Part 744. In other words, paragraph (a) to the de minimis Guidelines and General Prohibition 2 make it clear that, for a foreign-produced item to be subject to the EAR under the de minimis rule, it itself must be the type of item that would require a license to be shipped to the destination in question under the requirements set out in the Commerce Country Chart and the applicable ECCN, which are described in Parts 738 and 744. Thus, the criteria for determining whether a foreign-produced item is subject to the EAR do not include a requirement to consider the license requirements in Part 744. Some in BIS nonetheless take the position that if the foreign-made item is of a type that, if shipped from the US, would require a license for Part 744 reasons, then the foreign-produced item to be shipped from outside the US requires a license if it contains more than a de minimis amount of US-origin controlled content, such as National Security-controlled content. This is an issue that remains unresolved with some in BIS. Thus, any final action on such de minimis issues should be taken only with further advice of counsel.