



# Background: M.E.U. List (US) – How to deal with it

## The legal framework

In April 2020, the U.S. Department of Commerce Bureau of Industry and Security (BIS) announced a new rule imposing additional licensing requirements for items (listed in Supplement No. 2 to Part 744) destined to a Military End Use or Military End Users in the People's Republic of China, Russia, or Venezuela. This rule, known as the "MEU Rule," took effect on 29 June 2020.

On 23 December 2020, the U.S. Department of Commerce Bureau of Industry and Security (BIS) issued the anticipated list of designated military end users (MEU List) under Section §744.21 (MEU Rule) of the Export Administration Regulations (EAR) Restrictions (see Federal Register notice). This MEU List provides a "first tranche" of over 100 designated military end users from China and Russia.

The MEU List comprises a positive list to notify the public that a license will be required to export, reexport, or transfer (in-country) any item described in Part 744 Supp. 2 to the 102 "military end users" identified on the new MEU List.

MEU List designated entities may consider submitting a petition to the End-User Review Committee requesting removal or modification from the MEU List by addressing why the designated entity should not be considered a "military end user" or involved in "military end uses."

## Impact for deliveries to MEU listed entities

Even if your client's name is on the MEU List, please be aware that one important factor limits the scope of the MEU List. The MEU Rule does *not* apply to all items subject to the EAR, only to items listed in in Supplement No. 2 to Part 744 (MEU Items).

MEU Items are commercial items from the following Commerce Control List categories: (1) Materials, Chemicals, Microorganisms, and Toxins, (2) Materials Processing, (3) Electronics Design, Development and Production, (4) Computers, (5) Telecommunications and Information Security, (6) Sensors and Lasers, (7) Navigation and Avionics, (8) Marine, and (9) Propulsion Systems, Space Vehicles and Related Equipment.

Only in case your product is considered a MEU Item, shall its export be subject to a license.

If your products are not included in that Supplement 2 to Part 744, they would then not to be considered as MEU Item requiring application of the MEU Rule, thus not subject to the granting of a license by US authorities.

### **Be aware**

But, even if, because of your product's technical specificities, it is not considered as a MEU Item and your export, consequently, not subject to a US licence, do not forget that the fact that your client is on the MEU List may trigger some consequences.

You must be aware that, because of the MEU listing, your client should be considered a "military end user" or involved in "military end uses. This will require comprehensive due diligence to confirm whether a your China, Russia or Venezuela client is a military end user. The listing (operated by the US authorities) has to be an integral element of your overall assessment of your client's profile, and additional due diligence may be necessary prior to shipping that client in order to assess if your products are intended for a military end user.

Do not forget, in particular, that catch-all provisions may apply if your non-listed goods are (entirely or in part) or intended to be used for military purposes, in the sense of being integrated into a military equipment, or being a production, test or analytical equipment or an unfinished product in a plant for military production. In such case, you may have to notify your local licensing authorities if a license will be required or not for the particular export.

