



## **BPE Global Hot Topic—March 2017**

### **New Documentation Requirements for Exports and Reexports with Hong Kong, Effective April 19**

As trade compliance professionals, it is our job to stay ahead of the ever-changing rules and regulations governing the landscape of global trade. We must bob and weave with the pace of regulatory change and swiftly strategize on how to best integrate change into existing processes and procedures.

What's the latest change keeping us on our toes today? One thing is that we must have a solution ready on [April 19, 2017](#), when certain U.S. exports or reexports to Hong Kong will require new documentation requirements.

The new requirements affect a variety of products and require companies who export or reexport an item subject to the Export Administration Regulations (EAR) to obtain a copy of a Hong Kong import license from the Hong Kong importer, or a written statement from the Hong Kong government that a license is not required prior to such export or reexport.

#### **Background**

The Hong Kong Special Administrative Region (HKSAR) and the People's Republic of China (the PRC or Mainland China) are treated as two separate destinations under U.S. law for export control purposes. Hong Kong administers its own import and export systems and, owing to its status as a cooperating country with multilateral export control regimes, receives favorable treatment with regard to U.S. export licensing and regulations.

HKSAR serves U.S. national security and foreign policy interests directly, because many of these items are controlled due to their national security significance or their potential to be used in activities that would promote proliferation of weapons of mass destruction or in regional destabilizing activities.

The new documentation changes ensure that items subject to the multilateral control regimes will be properly authorized by the U.S. to their final destination, even when first passing through Hong Kong.

BIS' final rule reminds us that this change is not news for the persons reexporting from Hong Kong. The procurement of a license for export is already required under Hong Kong law. The only new action with respect to exports and reexports to Hong Kong is for the importer in Hong Kong to send a copy of the import license to its supplier.

## **Who is impacted?**

- Companies exporting to or reexporting goods controlled under the U.S. Export Administration Regulations through Hong Kong
- Distribution centers operating in Hong Kong
- Hong Kong importers and exporters dealing in U.S. product including distributors and resellers

## **What is impacted?**

Any product requiring a license when exported to Hong Kong. BIS defines this as “items subject to the EAR and controlled on the Commerce Control List (CCL) for National Security (NS), Missile Technology (MT), Nuclear Nonproliferation (NP Column 1), or Chemical and Biological Weapons (CB).”

## **What are the new requirements?**

### ***Exports and Reexports to Hong Kong***

The exporter or reexporter must obtain from its client or consignee (the Hong Kong “importer”) a copy of a valid import license issued to the Hong Kong importer by the Hong Kong government authorizing import of the item to be shipped to Hong Kong, or a copy of the written statement issued by the Hong Kong government stating that no import license is required to import the items into Hong Kong.

### ***Reexports from Hong Kong***

Hong Kong reexporters of affected U.S. product must obtain a Hong Kong export license or written statement that no license is required from the Hong Kong government prior to export, which is business as usual. Exports must meet the terms of the Hong Kong export license and be completed during the period of the license.

### ***Acceptable Hong Kong government “written statements”***

- Written communication to a license applicant that the item does not require a license
- Statement available to the general public (including a statement on a Web site by the Hong Kong government) that a license is not required for the item

### ***Rules, and Recordkeeping***

- Exporter or reexporter must have the copy(ies) of document in its possession
- License must not have expired at the time of export
- One document may be used for multiple shipments as long as the document remains accurate.
- Licenses and written statements must be retained for a five year period.
- A copy of the Hong Kong import license is not necessary to obtain prior to applying for a license from BIS. A copy of the Hong Kong import license must be obtained prior to export of the item to Hong Kong.

## **When do the changes go into effect?**

BIS will begin to enforce these changes on April 19, 2017.

## **How to obtain required documentation?**

- Determine if your item requires a Hong Kong import or export license on the Hong Kong Trade and Industry Department's using their Check Control Status of Specified Products [Search Bar](#) and/or on the Strategic Trade Controls Website [Strategic Commodities Control List](#) of HKSAR .
- Work with your counter party in Hong Kong to obtain the license (as BIS points out, they should already have it.)
- If a license is required but not obtained, there is excellent guidance on completing the license application on the [Strategic Commodities Control System Website](#).
- Note that the government of Hong Kong has already issued written statements indicating that certain items do not require export or import licenses. Some written statements are available on the Hong Kong government website.

## **Call to Action:**

If you haven't already, establish who will manage the process. Remember, the documentation must be in the possession of the exporter prior to export. Alert your supply chain and ensure that your brokers, carriers, logistics providers etc.. are aware of the requirements, including how to read the Hong Kong import license conditions of the import license document as well as the rules of recordkeeping.

As always, BPE Global is in your corner and is happy to assist in any capacity. You can find us on Twitter (@bpeglobal) or follow us on [LinkedIn](#) where we publish topical opinions on the ever-changing rules and regulations governing the landscape of global trade.

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