

BUREAU OF INDUSTRY AND SECURITY
FREQUENTLY ASKED QUESTIONS
EXCLUDED COUNTRIES
CURRENT AS OF MAY 2, 2022

Q1: What are the benefits under the EAR to countries partnering with the United States that are listed in supplement no. 3 to part 746 of the EAR as “excluded” countries?

A1: The countries listed in supplement no. 3 to part 746 of the EAR are countries that have committed to implementing export controls under their domestic laws that are substantially similar to the U.S. controls on Russia and Belarus. As a result of their commitment, these countries are not subject to the license requirements of the FDP rules for Russia and Belarus in § 734.9(f) and (g) that would otherwise apply. Additionally, for these countries, AT-only and 9A991 items are not counted as U.S.-origin controlled content for purposes of *de minimis* calculations under section 746.8(a)(1) that would otherwise apply in determining whether a foreign-produced item is subject to the EAR. (see § 746.8(a)(5) of the EAR)

Q2: Have the *de minimis* rules changed for foreign-produced items that are subject to the EAR and are destined to Russia or Belarus?

A2: No. The *de minimis* rules in § 734.4 of the EAR have not changed for foreign-produced items that are destined for Russia or Belarus. However, as described in § 746.8(a)(5), there are differences in applying the *de minimis* rules in § 734.4 and the guidance for *de minimis* calculations in supplement no. 2 to part 744 of the EAR, depending on the country from which the foreign-made item is reexported or exported from abroad. As stated in A1 of this section above, because the countries listed in supplement no. 3 to part 746 of the EAR are countries that have committed to implementing export controls under their domestic laws that are substantially similar to the U.S. controls on Russian and Belarus, if the foreign-produced item being reexported or exported from abroad to Russia or Belarus is from a country listed in supplement no. 3 to part 746, U.S.-origin content that is controlled on the CCL for AT reasons only or is classified under ECCN 9A991 is not considered controlled content for the purposes of a *de minimis* calculation under § 746.8(a)(1). AT-only ECCNs are those that have only AT in the ‘reason for control’ paragraph of the ECCN.