

Revised China/Hong Kong Recordkeeping Frequently Asked Questions (FAQs)

Published on February 19, 2021

Why did BIS institute this requirement for exports and reexports to Hong Kong?

BIS took this action to provide greater assurance that items subject to the multilateral control regimes (i.e. the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime, and the Nuclear Suppliers Group) will be properly authorized by the United States to their final destination, even when those items first pass through Hong Kong. This rule is also intended to complement the Hong Kong Government export control system, which requires both an import and export license for multilaterally controlled items.

My items are transiting through Hong Kong, but no entity in Hong Kong will be party to the transaction. The items will not be removed from the aircraft or vessel in Hong Kong. Does the Bureau of Industry and Security require a copy of the Hong Kong import or export license to be obtained prior to the item transiting through Hong Kong?

No. The April 19, 2017 rule only applies to exports and reexports to Hong Kong and reexports from Hong Kong. Per the EAR, the export or reexport of an item that will transit through a country or countries to a destination identified in the EAR is deemed to be an export to that destination. Under Hong Kong law you may still be required to get an import or export license from the Hong Kong government for transit shipments.

How do I find out if my items require a Hong Kong import or export license?

This Hong Kong Trade and Industry Department's Strategic Trade Controls website: <https://www.stc.tid.gov.hk/eindex.html> contains a tool to check the Hong Kong control status of specific items: <http://www.stc.tid.gov.hk/english/checkprod/controlstatus.html>. This list is not comprehensive, so if your item is not found on this list, you are advised to seek confirmation from the Hong Kong Trade and Industry Department as to whether your item requires a Hong Kong import or export license.

The party purchasing my item informed me that the import does not require a Hong Kong import license. Can I proceed with the export?

Before proceeding with the export or reexport, you must obtain a copy of a written statement issued to the Hong Kong importer from the Hong Kong Government stating that no import license is required to import the item into Hong Kong. This may be a "No License Required" notification ("NLR Notification"). It may also be found on Hong Kong Trade and Industry Department's Strategic Trade Controls website at: <https://www.stc.tid.gov.hk/eindex.html>. Their website contains a tool to check the status of many items previously classified under Hong Kong law at: <http://www.stc.tid.gov.hk/english/checkprod/controlstatus.html>. If the item you are exporting or reexporting to Hong Kong is not found on that website, contact the Hong Kong Trade and Industry Department to verify the control status of the item. It is an EAR requirement to keep a printed or digital record of the "NLR Notification" and/or "website information", which may be used for more than one export or reexport to or from Hong Kong, provided that the records are current. Exporters are advised to review the Hong Kong Trade and Industry Department's [website](#) for updates.

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Do I still need a copy of the Hong Kong import license from the party purchasing my item in Hong Kong if my items are eligible to ship to Hong Kong under a license exception in the Export Administration Regulations (EAR)?

Yes. Since April 19, 2017, a copy of the Hong Kong import license or a written statement that no license is required issued by the Hong Kong Government must be obtained prior to shipping an item under a license exception. The written statement may come in the form of a “NLR Notification” or “website information”.

If my item will be reexported from Hong Kong by another party, am I required to obtain a copy of the Hong Kong export license?

No, U.S. parties whose items have been exported to Hong Kong are not required to obtain a copy of the Hong Kong export license if their items are reexported from Hong Kong. However, the Hong Kong party must obtain a Hong Kong export license, a “NLR Notification”, or “website information” before reexporting the items.

Do I need to get a copy of the related Hong Kong import or export license from my customer in Hong Kong before I apply for a license from the Bureau of Industry and Security?

No, a copy of the Hong Kong import or export license is not necessary prior to applying for a license from the Bureau of Industry and Security. The copy of the Hong Kong import or export license is only necessary prior to shipment of the item to Hong Kong.

Are items designated as EAR99, or items that are unilaterally controlled, subject to the recordkeeping requirements in the April 19, 2017 rule?

The recordkeeping requirements in the April 19, 2017 rule apply to U.S. origin items that are subject to the multilateral control regimes (i.e. the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime, and the Nuclear Suppliers Group). Under the EAR, these items are controlled for CB, MT, NP1, or NS reasons. Items that are EAR99 or unilaterally controlled by the United States (e.g. ECCN 5A992, 5D992, etc.) are not subject to these recordkeeping requirements. This rule is intended to complement the control system of the Hong Kong Government, which requires both an import and export license for multilaterally controlled items imported and reexported by parties in Hong Kong.

I have determined that my products are not controlled for the reasons described in the rule. Do I need a specific pre-classification statement from the Hong Kong Government addressed to my company, or may I accept the results of Hong Kong Trade and Industry’s [search tool](#), as documentation?

Under the rule, information found on Hong Kong Trade and Industry Department’s [website](#) (“website information”) stating that no import license is required to import the item into Hong Kong is considered a copy of a written statement under the new rule. Hardcopy or digital records of a “No License Required” Notification (“NLR” Notification) or “website information” confirming the control status of your item in Hong Kong are required to be retained under the recordkeeping provisions of the rule. The “NLR Notification” or “website information” may be used for more than one export or reexport to Hong Kong or from Hong Kong, provided that the records are current. Review Hong Kong Trade and Industry’s [website](#) for updates because the Hong Kong control list is subject to changes.

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The company importing my items into Hong Kong sent an Approval-in-Principle letter from the Hong Kong Government. Does this letter allow me to ship items prior to obtaining a copy of the Hong Kong import license?

The “Approval-in-Principle Arrangement for Bulk Users of Strategic Commodities Licensing Service” (AIP) program expedites license processing for frequent shippers in Hong Kong. Approved companies receive an AIP letter from the Hong Kong Government, which details the relevant products, suppliers/consignees, end-users, etc. for covered shipments. The AIP letter is normally valid for one year. Companies must renew their AIP before it expires to continue enjoying its benefits. For purposes of the EAR only, you may treat a copy of the AIP letter or renewal as a Hong Kong import license, as long as the AIP letter (a) is valid when your shipment takes place and (b) includes the items and parties relevant to your export or reexport to Hong Kong. This does not negate the Hong Kong Government import or export requirements. For those using a renewal letter, they should ask the Hong Kong company to provide a copy of the updated approved items and parties from their electronic account with the Hong Kong Trade and Industry Department (TID). Additional information on AIP may be found on TID’s website: https://www.stc.tid.gov.hk/english/circular_pub/2009_stc09.html.

I am reexporting a multilaterally controlled item subject to the EAR from Hong Kong. Does my “Approval-in-Principle Arrangement for Bulk Users of Strategic Commodities Licensing Service” (AIP) letter meet the document requirements under Part 740 or Part 748 of the EAR for this reexport?

No, the AIP letter may not be used for reexporting from Hong Kong, in place of the individual Hong Kong export license for the purposes of complying with Section 740.2(a)(19) or Section 748.13 of the EAR.

Do intangible items in the form of software upgrades require a copy of the Hong Kong import or export license?

Hong Kong's strategic commodities regulations do not control intangible technology transfers. This information may be found on Hong Kong Trade and Industry Department’s website <https://www.stc.tid.gov.hk/english/faq/faq.html#Q9>. Therefore, the recordkeeping requirements set forth in Part 740 and Part 748 of the EAR do not apply to intangible technology transfers.