



Guidance on Application of General Prohibition 10 (GP10) to People's Republic of China (PRC) Advanced-Computing Integrated Circuits (ICs)

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SUMMARY

This guidance alerts industry to the risks of using PRC advanced-computing ICs, including specific Huawei Ascend chips. These chips were likely developed or produced in violation of U.S. export controls. BIS is warning that, pursuant to GP10, the use of such PRC advanced-computing ICs risks violating U.S. export controls and may subject companies to BIS enforcement action.

ILLUSTRATIVE LIST OF PRC ICs PRESUMPTIVELY SUBJECT TO GP10

BIS is advising the public that the use of ICs meeting the parameters for control under Export Control Classification Number (ECCN) 3A090 (see [supplement no. 1 to part 774](#) of the Export Administration Regulations (EAR) (15 CFR parts 730-774)) that have been developed or produced by companies located in, headquartered in, or whose ultimate parent company is headquartered in Country Group D:5 (see [supplement no. 1 to part 740](#) of the EAR), including the PRC, or Macau, may implicate the EAR's [GP10](#) (§ 736.2(b)(10)).¹ Engaging in GP10 activities, including use of such "PRC 3A090 ICs" without BIS authorization, could result in substantial criminal and administrative penalties. The following is an illustrative list of PRC 3A090 ICs subject to the presumption that GP10 restrictions apply. This list is not exhaustive and GP10 restrictions apply whenever a person has knowledge that a violation of the EAR has occurred, is about to occur, or is intended to occur in connection with PRC 3A090 ICs or other items subject to the EAR including boards, servers, or assemblies, whether or not included on this list. This list will be updated as needed.

PRC 3A090 ICs Subject to Presumption of GP10 Restrictions

Huawei Ascend 910B
Huawei Ascend 910C
Huawei Ascent 910D

¹ GP10 states, in relevant part: "You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the EAR... is about to occur, or is intended to occur in connection with the item." See 15 C.F.R. § 736.2(b)(10).

APPLICABLE REGULATIONS

All 3A090 ICs designed by companies located in, headquartered in, or with an ultimate parent company headquartered in the PRC, whether such chips are themselves produced within or outside the PRC, likely are subject to the EAR and may have been produced in violation of the EAR, subjecting them to GP10 restrictions. Such chips likely are either designed with certain U.S. software or technology or produced with semiconductor manufacturing equipment that is the direct product of certain U.S.-origin software or technology, or both.² Additionally, such PRC 3A090 ICs may have been produced, purchased, or ordered by an entity listed on the Entity List with a Footnote 1 or 4 designation (see [supplement no. 4 to part 744](#) of the EAR), or such entities were parties to the transaction.³ Accordingly, there is a high probability that a BIS license was required during the design and production of such PRC 3A090 ICs, including for:

1. The export from abroad or reexport from the PRC or transfer within the PRC of design files for 3A090 ICs from the PRC IC designer to the fabrication facility.⁴
2. The export from abroad or reexport to the PRC (or PRC headquartered company) or transfer within the PRC of the 3A090 IC from the fabrication facility to the PRC IC designer or seller.⁵
3. The participation of a Footnote 1 or Footnote 4 entity on the Entity List in any transaction involving the production or development of the PRC 3A090 IC or where such entity is otherwise a party to the transaction.⁶

GUIDANCE TO INDUSTRY REGARDING PRC 3A090 ICs

Because there is a high probability that a BIS authorization was required for the export, reexport, transfer (in-country), or export from abroad of any PRC 3A090 IC or related technology, unless such authorization was obtained, the design or production of the PRC 3A090 IC likely involved one or more violations of the EAR. Accordingly, BIS is notifying all persons and companies in the United States and abroad that engaging in GP10 activities, including use of PRC 3A090 ICs, such as those listed above, without requisite authorization from BIS could result in BIS enforcement actions which could include substantial criminal and administrative penalties, up to and including imprisonment, fines, loss of export privileges, or other restrictions.

If a party intends to take any action with respect to a PRC 3A090 IC for which it has not received authorization from BIS, that party should confirm with its supplier, prior to performing any of the activities identified in GP10 to ensure compliance with the EAR, that authorization exists for the export, reexport, transfer (in-country), or export from abroad of (1) the production technology for that PRC 3A090 IC from its designer to its fabricator, and (2) the PRC 3A090 IC itself from the fabricator to its designer or other supplier.

² See 15 C.F.R. § 734.9(h).

³ See 15 C.F.R. § 734.9(e)(1) and (2).

⁴ See 15 C.F.R. §§ 734.9(h)(1)(i)(A), (h)(1)(i)(B)(1), and (h)(2)(ii); 742.6(a)(6)(ii); and 742.6(a)(6)(iii).

⁵ See 15 C.F.R. §§ 734.9(h)(1)(ii) and (h)(2)(i) and 742.6(a)(6)(iii).

⁶ See 15 C.F.R. §§ 734.9(e)(1) and (e)(2) and 744.11(a)(2)(i) and (a)(2)(iv).

BIS will not pursue enforcement actions against parties that obtain a PRC 3A090 IC solely for the purpose of technical analysis or evaluation (such as destructive testing) to determine the technical capabilities of an individual IC.