



Commerce Tightens Restrictions on Cuba

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The Administration tightened export regulations regarding Cuba, effective October 21, 2019. The changes are generally targeted at Cuban government-owned enterprises, and according to the Commerce Department press release are intended to “hold the Cuban regime accountable for its repression of the Cuban people and its support for the Maduro regime in Venezuela.”

Aviation

The amended regulations replace the Bureau of Industry and Security’s (BIS) general policy of approval with a presumption of denial of licenses for the sale or lease of aircraft to Cuban state-owned airlines. To demonstrate ownership, any aircraft departing for Cuba must retain certain enumerated “indicia of control,” including the right to perform principal maintenance on the aircraft, place of registration, and a minimal transfer of technology.

Also related to aircraft, the new restrictions alter the Aircraft, Vessels and Spacecraft (AVS) license exception to exclude any aircraft or vessels chartered by a national of Cuba. Prior to the restriction, License Exception AVS allowed aircraft to travel to Cuba on temporary sojourn if certain conditions were met.

De Minimis

BIS further amended the Export Administration Regulations (EAR) to establish a 10 percent *de minimis* standard for Cuba. This effectively means that items produced outside of the United States that are exported to Cuba are still subject to U.S. export regulations if they contain more than 10 percent U.S.-origin products by value. This is much more restrictive than the typical 25-percent threshold.

Support for the Cuban People

Finally, the rule restricts the Support for Cuban People (SCP) license exception, updating the exception to prohibit the donation of items for use by the Cuban government or that would generally benefit the Cuban government.

With the Administration’s renewed focus on targeting exports that may benefit the Cuban government, we recommend that companies closely review their exports, whether sales or donations, for compliance with the new restrictions.

1 Min Read

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